UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

v. 16 CR 246 (JSR)

KIAN GOHARI,

Jury Trial

Defendant.

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New York, N.Y.
November 2, 2016
9:15 a.m.

Before:

HON. JED S. RAKOFF

District Judge

APPEARANCES

PREET BHARARA
United States Attorney for the
Southern District of New York
JORDAN L. ESTES
JASON A. RICHMAN
EDWARD B. DISKANT
Assistant United States Attorneys

GREGORY W. KEHOE
ILANA HARAMATI
MICHAEL BACHNER
Attorneys for Defendant

(Trial resumed; jury not present)

THE COURT: Let's get the witness on the stand and let's bring in the jury.

MS. ESTES: Your Honor, one small thing to raise?

THE COURT: Yes.

MS. ESTES: We intended to offer the witness's cooperation agreement on direct because we think they opened the door in opening.

THE COURT: Let me find out if there is any problem.

MR. KEHOE: No objection. I told counsel in the spirit of candor I'm going to approve the agreement.

THE COURT: Thank you.

MS. ESTES: Thank you, your Honor.

THE COURT: To remind you, tomorrow we only sit a half day, and it looks like we will only sit a half day on Friday as well, so bear that in mind.

(Continued on next page)

(Jury present)

THE COURT: Good morning, ladies and gentlemen. Thank you again for your promptness. And I like the hat on Juror No. 11. Juror No. 11 is obviously the style queen of this particular jury.

Let's continue.

GILBERTO CABRERA, resumed.

DIRECT EXAMINATION (continued)

Q. Good morning, Mr. Cabrera.
A. Good morning.
Q. Mr. Cabrera, have you ever taken prescriptions to a pharmacy on Pitkin Avenue?
A. Yes.
Q. When did you take prescriptions there?
A. I'm not quite sure of the date.
Q. Was it during the course of your dealings with the defendant?
A. Yes.
Q. What sort of prescriptions did you take to that pharmacy?
A. Psychiatric medications as well as oxycodone.
Q. Why did you take prescriptions to that pharmacy?
A. In the beginning, when Danny wouldn't be there, I would go to another pharmacy.
Q. When you say wouldn't be there, what do you mean?
A. Like he wasn't at the pharmacy.

Q. Was the pharmacy open when he wasn't there?
A. Yes.
Q. Why didn't you take them there, since the pharmacy was open?
A. Because no one else would fill it, fill the oxycodone for me.
Q. Did you and the defendant have a conversation about the fact that you took prescriptions to this other pharmacy?
A. Yes.
Q. What did he say to you and what did you say to him?
A. What happened was they were going to do a refill on a medication for one of the people that I was bringing medications to, and for some reason it wasn't going through when he was processing it. He found that another pharmacy processed the medication and he told me, why did I go over there? I explained to him why. He said, well, don't do that again. And we came to agreement he was going to let me know the days that he would be there and won't be there. So he had me tell the other person to call the other pharmacy to have them reverse the transaction.
Q. Let me break that down a little bit. You said that he was going to tell you the days he would be there?
A. Yes.
Q. Could you explain what you mean by that.
A. Basically he would show me the calendar and he would tell

me like these days he would be here or it would be some type of Jewish holidays on these days and preferably I came before this date or after this date or at this time or before this time.
Q. Did he in fact show you a calendar?
A. Yes.
Q. On the days he wasn't there, what was your understanding as to whether the pharmacy was open?
A. Yes, the pharmacy would still be open.
Q. So why couldn't you go to the pharmacy on those days?
A. Because no one else would fill the oxycodone but him.
MS. ESTES: Your Honor, may I publish what has been previously marked as an aid to the jury as Government Exhibit 408-T?
THE COURT: Yes.
MS. ESTES: May I play a call which is Government Exhibit 408, dated October 5, 2015?
THE COURT: Yes.
(Audio played)
Q. Mr. Cabrera, who was talking on that call?
A. I'm not sure. I think one of the pharmacists at Afam.
Q. Who was the other person on the call?
A. That was myself.
Q. Why did you call the pharmacy at this time?
A. To see if Danny was there.
Q. Why did you want to know if Danny was there?

A. Because I had an oxycodone prescription.

MS. ESTES: Your Honor, may I publish what has been previously entered into evidence as Government Exhibits 418 and 419?

THE COURT: Yes.

MS. ESTES: Ms. Bostillo, could you please zoom in to the text messages.

Q. Mr. Cabrera, do you recognize these text messages?

A. Yes.

Q. What is the date of the text messages?

A. The date will be October 5, 2015.

Q. What is the time?

A. 10:04 a.m.

Q. Who did you send the messages to?

A. To Danny.

Q. Did Danny ever respond to the messages?

A. No.

Q. What do the messages say?

A. Sheri Bowen is being sent electronically by 11:00.

Q. Why did you send these text messages?

A. To let him know ahead of time that the oxycodone was coming.

MS. ESTES: Your Honor, may I publish what has been previously entered into evidence as Government Exhibits 420 and 421?

THE COURT: Yes.
Q. Mr. Cabrera, do you recognize these text messages?
A. Yes.
Q. What is the date of these text messages?
A. October 5, 2015.
Q. Who were they sent to?
A. To Danny.
Q. Who sent them?
A. I did.
Q. Did Danny respond?
A. No.
Q. What are the times of the text messages?
A. 1:27 p.m. and 1:28 p.m.
Q. What do the text messages say?
A. "I drove 3 hours. You never told me not to come today. I told you it was Sheri Bowen today."
Q. Why did you send this text message, these text messages?
A. Because I was upset. I literally drove 3 hours, and I had told him prior that Sheri Bowen was going that day, I was coming to pick up the oxycodone to bring the prescription.
Q. You just said you drove 3 hours that day. Why did you drive 3 hours?
A. Because from where I live to where the pharmacy is is like 3 hours.
Q. Where did you live at the time?

A. Pennsylvania.
Q. Could you describe how you got from Pennsylvania to the pharmacy.
A. Yes. I drove on the 80 to 280. Then I took the Holland Tunnel to Canal, through Canal to the Williamsburg Bridge.
Q. Did you drive through Manhattan?
A. Yes.
Q. Mr. Cabrera, in the course of your oxycodone dealing, have you dealt with an individual known as Super?
A. Yes.
Q. How do you know Super?
A. I know him from my neighborhood of Brooklyn. We've done dealings together with various things: drugs and street dealings, things of that nature.
Q. What does Super do to make money?
A. He does various things. He sells crack, dope, pills.
Q. Do you have an understanding of where he gets his pills from?
A. He goes to various places.
Q. Could you explain your dealings with Super regarding pills, if any.
A. We had a couple of dealings. I went to him to sell pills. He connected me with other people.
Q. Have you ever taken Super's prescriptions to the defendant's pharmacy?

A. No.

MS. ESTES: Your Honor, may I publish what has been previously admitted as an aid to the jury as Government Exhibit 409-T?

THE COURT: Yes.

MS. ESTES: May I also play Government Exhibit 409-A, which is a call dated October 5, 2015?

THE COURT: Yes.

(Audio played)

Q. Mr. Cabrera, who is talking on that call?

A. That would be myself and Super.

Q. Let me direct your attention to the line of the call where Super says, "I'm over here by, um, by Danny's and shit." What did you understand him to be referring to?

A. He's over there in front of the pharmacy, Danny's pharmacy.

Q. Directing your attention to the line where he says, "My people been trying to get some shit up and take it to try Danny, see if he got something over there," what did you understand him to be referring to?

A. He was referring he must have had -- well, he had some people with him, who I don't know, but they had some oxycodone prescriptions, so they were going to try and see if they can get them filled over there.

Q. Let me direct your attention to the line where Super says, "You don't fuck with nobody but him." What did you understand

that to mean?
A. Basically, I said I didn't deal with no one but Danny.
Q. Why didn't you deal with anyone but Danny?
A. Because at that time no one was filling the oxycodone but Danny.
Q. When you say no one, who are you referring to?
A. To the other pharmacists in there. There would be other pharmacists there when he is not there, but they wouldn't fill the oxycodone. There came a point that no one filled it in there but Danny.

MS. ESTES: Your Honor, may I publish what has been previously entered into evidence as Government Exhibits 422 and 423?

THE COURT: I'm so attempted to vary the theme by saying no. But on the careful consideration, the answer is yes.

MS. ESTES: Thank you, your Honor.

Ms. Bostillo, could you please zoom in on these text messages.

Q. Mr. Cabrera, do you recognize these text messages?
A. Yes.
Q. What is the date of the text messages?
A. The date would be October 10, 2015.
Q. Who sent the messages?
A. I did.

Q. Who were they sent to?
A. To Danny.
Q. Did Danny respond?
A. No.
Q. What do the text messages say?
A. "Robert Hespeth today. We here."
Q. Why did you send these text messages?
A. To remind him that we were over there waiting.
Q. When you say "we were over there," what do you mean by that?
A. Robert and I, Hespeth, was over there waiting for him to come so he could fill the prescription.

MS. ESTES: Your Honor, may I publish what has been previously offered as an aid to the jury as Government Exhibit 410-T?

THE COURT: Yes.

MS. ESTES: May I also play Government Exhibit 410-A?

THE COURT: Yes.

(Audio played)

Q. Mr. Cabrera, who is talking on that call?
A. That would be myself and Robert Hespeth.
Q. Directing your attention to the line where you said "Tell her Danny said, tell her Danny said for you to leave it here," why did you say that?
A. Because Danny always told us that if he wasn't there, just

leave the oxycodone prescription there, and either if he came in that night he'll do it or the following day when he came in he would take care of it.
Q. Let me direct your attention to the second page of this transcript, where you say, "I'm going to call -- and it will be like what the fuck is going on."
A. I was kind of upset because I didn't understand. Because Danny told me, that's how I've always done it -- I don't know why he changed that date -- that if he wasn't there, just to leave the oxycodone prescription there, which we've done countless times. For some reason the lady didn't want to take it.
Q. Did you call the defendant after that?
A. Yes, I tried contacting him, yes.
MS. ESTES: Your Honor, may I publish what has been previously offered as an aid to the jury as Government Exhibit 411-T?
THE COURT: Yes.
MS. ESTES: May I also play Government Exhibit 411-A, which is a voicemail dated October 10, 2015?
THE COURT: Yes.
(Audio played)
Q. Mr. Cabrera, who is talking on that voicemail?
A. That was myself.
Q. What number did you call?

A. 347-733-3716.
Q. Whose number is that?
A. Danny's.
Q. Is that the pharmacy number?
A. No, that's his cell phone number.
Q. Mr. Cabrera, why did you leave this message?
A. Because I was upset.
Q. Why were you upset?
A. Because, you know, we had an agreement. I always kept my part of the agreement. I always brought in bulk prescriptions and I did what he told me. He told me whenever he is not there, just leave the prescriptions, there is not going to be a problem. For some reason this lady was giving us an issue that day, so I was kind of upset.
Q. Mr. Cabrera, did there come a time when the defendant stopped filling prescriptions for you?
A. Yes.
Q. When was that, approximately?
A. I don't recall the exact day. I want to say probably around October last year sometime.

MS. ESTES: Your Honor, may I publish what has been previously offered as an aid to the jury as Government Exhibit 412-T?

THE COURT: Yes.

MS. ESTES: May I also play Government Exhibit 412, which is a call dated October 27, 2015?

THE COURT: Yes.

(Audio played)

Q. Mr. Cabrera, who was talking on that call?

A. That was myself with Danny.

Q. Let me direct your attention to the part of the call where you say, "I'm at the clinic with Benn Darin, so I'm going to bring all his stuff tomorrow, okay?" Why did you say that to the defendant?

A. To let him know that I had a bulk of prescriptions that I was going to bring to the pharmacy.

Q. Who were the prescriptions for?

A. Benn Darin.

Q. What sort of prescriptions did he get?

A. He got HIV, cancer, I believe dialysis, as well as psychiatric, along with a bunch of other medications.

Q. Let me direct your attention to the line where you say, "I go Thursday." Why did you say that to the defendant?

A. To let him know that my day was Thursday so if he didn't have it in stock, then he'll order it on time.

Q. When you say "it" in stock, what are you referring to?

A. The oxycodone.

MS. ESTES: Your Honor, may I publish what has been previously offered as an aid to the jury as Government Exhibit 413-T?

THE COURT: Yes.

MS. ESTES: May I also play Government Exhibit 413-A, which is a call dated October 27, 2015?

THE COURT: Yes.

(Audio played)

Q. Mr. Cabrera, who was talking on that call?

A. Myself and Danny.

Q. Let me direct your attention to the line of the call where the defendant says, "I will not have Benn Darin's stuff." What did you understand that to mean when he said that?

A. Honestly, I didn't know what was going on. I knew something was up, something was weird.

Q. Why did you think something was weird?

A. Because he always filled in Benn Darin's HIV prescriptions and stuff.

Q. Let me direct your attention to the line of the call where the defendant says, "All right. When you come, I'm, uh," and then you respond, "Ah, he, he, don't get that."

A. Because I thought maybe he misunderstood that I was asking about oxycodone or something. But then again I didn't understand why he was acting like this during the conversation.

Q. Let me turn to the last page of this transcript. Turning to the line where you say, "But the other thing is okay," why did you say that to the defendant?

A. I was bringing up the oxycodone to let him know was that

okay.
Q. Why did you ask him about the oxycodone specifically?
A. Because I figured something was going on. I was seeing if it was still all right to get it.
Q. What do you mean by something was going on?
A. I don't know. From the tone of his voice, I'm always talking with him and everything, I just knew something was wrong.
MS. ESTES: Your Honor, may I publish what has been previously offered as an aid to the jury as Government Exhibit 414-T?
THE COURT: Yes.
MS. ESTES: And may I also play Government Exhibit 414-A, which is a call dated October 27, 2015?
THE COURT: Yes.
(Audio played)
Q. Mr. Cabrera, who was talking on the call?
A. That was myself and Robert Hespeth.
Q. Why did you call Hespeth?
A. After I spoke with Danny, like I said, I didn't understand what was going on, I knew something was weird, so I called my nephew and I told him to go to the pharmacy to find out what was going on.
Q. Why didn't you go to the pharmacy?
A. Because I was a few hours away. I was at home.

MS. ESTES: Your Honor, may I publish what has been previously offered as an aid to the jury as Government Exhibit 415-T, and may I also play Government Exhibit 415A, which is a call dated October 27, 2015?

THE COURT: Yes.

(Audio played)

Q. Mr. Cabrera, who is talking on that call?

A. That would be myself and Robert Hespeth.

Q. Generally, what is your understanding about what Hespeth is telling you on the call?

A. Basically, some type of officials came into Danny's pharmacy and hit him with some type of paperwork and documents to obtain all the oxycodone prescriptions that we were bringing there.

Q. Let me direct your attention to the line of the call where Hespeth says, "And he has said Benn Darin will be -- he has some shit for Benn Darin. It will come Friday." What did you understand that to mean?

A. I guess he must have had a back order of maybe some medications that he had for him.

Q. Did you pick up any prescriptions for Benn Darin that week?

A. No.

Q. Let me direct your attention to the line where Hespeth says, "But oxycodone, he said oxycodones, we should just wait for like three to six months." What do you understand that to

mean?
A. That we should wait three to six months in order to bring back prescriptions.
Q. Prescriptions for what?
A. For oxycodone.
Q. After these calls, did you go to the defendant's pharmacy?
A. Yes.
Q. When?
A. I want to say a couple of days after.
Q. What happened when you got there?
A. When I got there, I waited for him, and he wound up showing up. He was really nervous. He showed me this document, and the document stated something to the effect that they had Robert Hespeth's name on it and that they were also confiscating -- if I recall the exact number, it was like 80 prescriptions.
Q. Let me break that down a bit. You said you waited for him. How long did you wait?
A. I probably waited outside for like 20 minutes.
Q. Then what happened?
A. He showed up.
Q. When he showed up, where did you have this conversation?
A. We had it inside and outside.
Q. First I would like to talk about what happened inside the pharmacy. What did you discuss inside the pharmacy?

A. Basically, like I stated, he showed me the document, I read the document, and he told me that he don't know what's going on but these officials came in there, confiscated all of the oxycodone prescriptions that we brought in there, and basically he's going to lay low for a little while, he didn't want me to bring no more oxycodone there, prescriptions. And in three to six months, if everything calms down, then I can come back.
Q. Was anyone else in the pharmacy when you were talking?
A. Yes.
Q. To your knowledge, could they hear you?
A. No, because we was off like to the left side speaking in low tones.
Q. You also testified that you had a separate conversation outside. I'd like you to tell me about that conversation.
A. Yes. He didn't want me in the pharmacy, so he said he'll talk to me outside. So we went around the corner and we spoke outside briefly. Basically, he just told me the same thing: like he doesn't know what's going on, just stay away, let everything calm down, and if everything goes well, in three to six months I can come back and bring back my prescriptions.
Q. What is your understanding of why he didn't want you in the pharmacy?
A. Because some government officials confiscated the prescriptions, so he didn't want to get into any trouble.
Q. Did you bring any oxycodone prescriptions back to the

defendant after that?
A. No. I didn't come back at all.
Q. Mr. Cabrera, you have testified that you were arrested in 2016 on this case for an oxycodone distribution conspiracy. Was that the first time you were involved in drug dealing?
A. No.
Q. When was the first time you were involved in drug dealing?
A. I want to say 14, 15 years old.
Q. What sort of drugs were you dealing at the time?
A. Crack.
Q. Were you dealing anything else?
A. Yes, marijuana.
Q. In addition to drug dealing, were you committing other crimes as a teenager?
A. Yes.
Q. What sort of crimes?
A. Robberies, driving in stolen cars, joyriding, stuff like that.
Q. Have you been arrested for some of these crimes?
A. Yes.
Q. Have you been convicted for some of these crimes?
A. Yes.
Q. Have you been incarcerated?
A. Yes.
Q. What is the longest prison term you completed?

A. 4½ years.
Q. When did you complete that prison term?
A. In 1996.
Q. After your release from prison in 1996, did you become involved in drug dealing again?
A. Yes, I want to say a couple of years later.
Q. What sort of drugs were you distributing then?
A. Crack and dope.
Q. Where were you distributing those drugs?
A. In Manhattan.
Q. In connection with that drug dealing, did you smuggle drugs into prison?
A. Yes.
Q. Approximately how many times?
A. A few times.
Q. Mr. Cabrera, have you ever committed crimes that you were not arrested for?
A. Yes.
Q. What sort of crimes?
A. My heroin dealings, my recent crack dealings, and robberies.
Q. Have you told the government about those crimes?
A. Yes.
Q. Why did you tell the government about those crimes?
A. I was told to tell the truth.

Q. Mr. Cabrera, if you could please turn in your exhibit binder to what has been marked for identification as Government Exhibit 1102. My apologies, Mr. Cabrera. 1101. One more time. 1100 I believe is the number.
A. 100 and what?
Q. No, 1100.
MR. KEHOE: Excuse me. 1100 is Ms. Bowen. 1101 is marked as Mr. Cabrera.
MS. ESTES: Your Honor, may I approach? There appears to be some confusion in the exhibit numbers.
THE COURT: Yes. The one that I have is 1101.
THE WITNESS: It says 1101.
MS. ESTES: Yes, your Honor, that's right.
Q. This is what has been premarked for identification as Government Exhibit 1101. Mr. Cabrera, do you recognize this document?
A. Yes.
Q. What is this document?
A. My agreement.
THE COURT: You need to speak into the microphone.
THE WITNESS: I'm sorry.
A. My agreement.
Q. What agreement are you referring to?
A. That I was to tell the truth about all of the dealings that I did in my past and to date.

Q. Who is this agreement with?
A. With the government.
Q. Directing your attention to the last page of the agreement --
A. Yes.
Q. -- is that your signature on the bottom?
A. Yes.
Q. Before you signed this agreement, did you review it with your attorney?
A. Yes.
Q. After you signed this agreement, did you plead guilty to crimes?
A. Yes.
Q. What sort of crimes?
A. All my drug dealings and my past crimes.
Q. Could you specify what kinds of drug dealing you pled guilty to.
A. To heroin dealings as well as crack dealings.
Q. In addition to your heroin dealings and crack dealings, did you plead guilty to anything else?
A. Yes.
Q. What else did you plead guilty to?
A. To the distribution of oxycodone.
Q. Did you plead guilty to anything else?
A. Yes.

Q. What was that?

THE COURT: Did you plead guilty to health care fraud?

THE WITNESS: Oh, yes. Medicare fraud, yes.

Q. Mr. Cabrera, why did you plead guilty to those crimes?

A. Because I was guilty.

Q. Have you been sentenced?

A. Yes. Well, actually, no, I wasn't sentenced.

Q. You pled guilty but you have not been sentenced?

A. Right.

Q. What is your understanding of the maximum sentence you face as a result of that guilty plea?

A. I'm to tell the truth, and if I lie, I can get life in prison.

Q. What is your understanding of the mandatory minimum sentence you face as a result of that guilty plea?

A. 10 years.

Q. What is your understanding of your obligations under the agreement that you pled guilty pursuant to?

A. That I must tell the truth of all my dealings, present and past.

Q. Are there any other obligations?

A. Yes. I'm not to get into any more trouble.

Q. Are you testifying today as part of that agreement?

A. Yes.

Q. What is your understanding of what you will receive in

return from the government if you comply with your obligations in that agreement?
A. I believe it's called a 51K letter.
Q. What is your understanding of what writes that letter?
A. The prosecutor.
Q. What is your understanding of what type of information goes into that letter?
A. Everything that I've done in the past to the present and everything that I'm doing today as far as testifying.
Q. When you say everything you've done in the past, what are you referring to?
A. To all my criminal activities.
Q. What is your understanding of who receives that letter?
A. The judge.
Q. What is your understanding of what effect that letter has on your possible sentence?
A. That I can get below the 10-year minimum.
Q. With that letter, what is your understanding of what your lowest possible sentence is?
A. I'm hoping to get time served.
Q. If the government submits that letter, what is the maximum sentence you can get?
A. Life.
Q. Do you know what you will be sentenced to?
A. No.

Q. Were you promised any particular sentence or range of sentence?
A. No.
Q. What is your understanding of what happens if you don't tell the truth during this trial?
A. That I will receive the maximum sentence.
Q. Is your understanding that the cooperation agreement will be voided?
A. Yes.
Q. Will you get that 5K letter?
A. No.
Q. At that time can you withdraw your guilty plea?
A. No.
Q. What is your understanding of what effect that would have on your possible sentence?
A. That I will get a minimum of 10 years.
Q. What is your understanding of whether the outcome of this trial has any effect on whether you receive that 5K letter?
A. Guilty or not guilty, it doesn't affect my sentence whatsoever.

MS. ESTES: Your Honor, may I have one moment?

THE COURT: Yes.

MS. ESTES: Your Honor, at this time we would offer the cooperation agreement into evidence.

MR. KEHOE: No objection, Judge.

THE COURT: Received.

(Government's Exhibit Cooperation Letter received in evidence)

MS. ESTES: No further questions.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. KEHOE:

Q. Good morning, Mr. Cabrera.

A. Good morning.

Q. Mr. Cabrera, you were arrested on March 1st of 2016, were you not, on or about that date?

A. Yes, sounds about right.

Q. You were told by the prosecutors and by the agents what you were facing, is that right?

A. What was I facing? No.

Q. You knew that the amount of time that you were facing was quite significant, isn't that right?

A. At the time, no, I didn't.

Q. You knew that you faced a potential period of incarceration, jail?

A. I didn't know what was I facing at the time.

Q. You have been to jail before, right?

A. Yes.

Q. It's a bad place?

A. Yes.

Q. I think you told us that you did a 4½ year sentence at one point?
A. Yes.
Q. You did not want to return there, did you?
A. No.
Q. When you got arrested on March 1st, you had moved your family from Brooklyn to Pennsylvania, right?
A. Yes.
Q. You had young children there?
A. Yes.
Q. How many young children did you have?
A. I had four.
Q. Your wife was there and had a pretty decent job?
A. Yes.
Q. When you were arrested on March 1st and you sat down with the agents and they told you the criminal complaint which you were facing, you had been in jail, you didn't want to return, you had a family to face and children that you were raising, and you had to make a decision as to what you were going to do, didn't you?
A. Yes.
Q. Almost immediately, even before you were indicted, you made the choice to begin to cooperate with the government, right?
A. I made the choice, yes.
Q. As a matter of fact, three weeks before you were

indicted -- I direct your attention to March the 7th, 2016 -- you sat down and began one of your many meetings with law enforcement and the U.S. Attorney's office, didn't you?
A. Yes.
Q. That was the idea or that was with the intention of making a deal, wasn't it?
A. Yes.
Q. Making a deal that would allow you to go back to Pennsylvania, back to your state, to your family, as everybody would want to do, to go back to their family and back to their children, right?
A. Yes.
Q. You made that choice at that point early on in your own best interests as you saw them to begin to cooperate with the government?
A. Yes.
Q. They wanted you at that point, when you cooperated with the government, to give them somebody, didn't they?
THE COURT: Sustained.
Q. They wanted you to testify against --
THE COURT: Excuse me. Sustained. You're asking for the operations of someone else's mind. Sustained.
MR. KEHOE: Yes, your Honor.
Q. You believed at that time that you had to give them somebody, didn't you?

A. No. First, we basically spoke on my activities and stuff like that, like I have committed crimes in the past and all my involvement and everything.

(Continued on next page)

BY MR. KEHOE:
Q. Well, you began to cooperate with them at the very outset in your desire to get a sentence where you were going to get a sentence of time served, right?
A. I'm hoping, but the agreement was that I tell the truth about everything that I've done and my involvement in everything. So as long as I told the truth on everything, then I would get an agreement.
Q. How much time have you actually done on this crime?
A. I want to say about a month.
Q. You were put out on bond. You were arrested on March 1 and you were arraigned and you were released almost immediately, weren't you?
A. No. I spent a couple of weeks in jail at least.
Q. You spent a couple weeks?
A. Couple weeks, three weeks, I think, or something. I'm not sure. I know I didn't come out immediately, no.
Q. So, look, I'm just trying to get what your thought process is at the time. So you're doing this time and you're talking to the government.
A. No, I hadn't spoken to them as of yet. I didn't speak to no one. I got in contact with the government after my release.
Q. Okay. So if you were arrested on March 1, do you recall that you in fact began to talk to the government on March 7 of 2016, six days later?

A. I didn't speak to no one until I was released.
Q. Didn't you begin to speak to the government on March 7th of 2016, six days after your arrest?
A. I don't recall the exact date.
Q. May I show you something to refresh your recollection?
THE COURT: If what you're asking is do you want the permission of the Court to approach the witness, the answer is yes.
MR. KEHOE: Yes, your Honor. My apologies. May I approach the witness, your Honor?
THE COURT: Yes.
MR. KEHOE: I'm talking about 3504-1 for the record.
Q. If I can show you -- can I stand here, Judge?
THE COURT: Yes.
Q. May I show you what's been marked as 3504 and I ask you to take a look at this and ask you if it refreshes your recollection of the date of your first interview with law enforcement officials and the United States?
THE COURT: Just so you understand the question, we don't want you to read from the document. The document is not in evidence. The question is whether having looked at that document it refreshes you and you have an independent memory of the date, if you have now an independent memory of the date.
THE WITNESS: I don't recall the date, no.
THE COURT: Okay.

Q. Well, do you recall the date, sir, when you first began to talk to the United States?
A. I don't recall the exact date, but I went with my attorney.
Q. Well, it was before you were actually indicted, wasn't it?
A. I'm not quite sure.
Q. Sir, just to circle this back around. You made a decision to assist the United States so you would minimize any penalty that you received in this case and that you were able to go back home to your family and to your children, right?
A. I was released at this time.
Q. I'm talking about now, sir. You made the decision then and ultimately signed this plea agreement with the United States that we just received into evidence as Government Exhibit 1101 because you didn't want to go back to jail and you wanted to go back to your family and live with your wife and raise your children, right?
A. Yeah, I wanted to go back home, yes.
Q. And so you made a decision in what you thought was in your own best interests, right?
A. Yeah, to tell the truth, you know, of my involvement in everything, yes.
Q. You were talking a little bit about making and the deal that you had here was that you had to ensure that the United States government agreed with what you had to say because if they didn't agree, they weren't going to file a letter with the

judge or a motion with the judge asking for a reduction of your sentence; isn't that right?
A. They had to see if I was telling the truth.
Q. If they did not agree, if they were unhappy with you in some form, they -- excuse me. Let me finish. Just let me finish. I don't mean to cut you off and you'll have time to talk, please.

If the United States was not happy with your testimony or didn't agree that you were being fully candid about everything, it was within the sole discretion of the folks seated at the table to the right whether or not they were going to ask for a reduction in your sentence, correct?
A. Yes.
Q. So part of that request from the United States was for you to testify against Mr. Gohari, Danny, right?
A. Yes.
Q. So they asked you to testify against Danny. They asked you to come in here and talk about him. And the deal you made in your best interests is to ensure that the government is happy so that you can go back home --

THE COURT: Counsel, although there's been no objection by the government, I think it is not helpful to the jury to have repeated questions that are compound, multiply compound in nature, so that it's unclear what is being asked because there are at least four or five different assertions all bound up in one question. So please rephrase.

MR. KEHOE: Yes, your Honor. My apologies, and I will take your Honor's guidance. Thank you.

Q. Could you turn to page 4 of the plea agreement. Do you have that, sir? It's 1101.

A. Four.

Q. And do you see that the paragraph beginning -- second paragraph, the first full one -- it is understood?

A. It is understood.

Q. It says that --

A. The second paragraph?

Q. Yeah, the second paragraph, sir. It is understood that this office, that should this office determine either the defendant has not provided substantial assistance in an investigation or prosecution, or that the defendant has violated any provision of this agreement, such a determination will release this office from any obligation to file a motion pursuant to Section 5K1.1 of the sentencing guidelines, but it will not entitle defendant to withdraw his plea?

A. Yes.

Q. So the discretion as to whether or not you have succeeded or not succeeded is up to the folks in the U.S. Attorney's Office, right?

A. Yes.

Q. And one of the things they had asked you to do from the very outset was to begin to tell a story about Mr. Gohari, right?

MS. ESTES: Objection.

THE COURT: Sustained. Objection to the word story.

Q. They wanted you to testify against Mr. Gohari?

A. Well, at first they just wanted me to tell them the truth about everything and what was my involvement and everybody's involvement in the oxycodone scheme, as well as my past dealings.

Q. As we sit here, the only person left in this case left to testify against is Mr. Gohari?

MS. ESTES: Objection.

THE COURT: Sustained.

Q. You're here testifying on Mr. Gohari, right?

A. Yes.

Q. And with all due respect, sir, and I don't mean to repeat this, you're testifying against him because you want to go home?

MS. ESTES: Objection, asked and answered.

THE COURT: Sustained.

Q. As I said, we started this, you made a decision to sign this agreement, begin to cooperate, because you believed it was in your own best interest, right?

A. I was told if I told the truth and didn't lie about anything that they will help me with the letter.

Q. My question is simpler. You made the decision to sign this letter and to sit here and testify today because you thought it was in your own best interest to do so, right?
A. Yes.
Q. So let's go back to the theme of operating in your interest and look at the actual items that you've talked about today.
MS. ESTES: Objection.
THE COURT: Just put questions, counsel.
Q. Now, you started in this transaction, this oxycodone transaction, and I think that you said that you began to do this with Alberto Nazario?
A. Yes.
Q. Can you just move the microphone. It's a little bit easier for the jury and Court.
MR. KEHOE: Judge, I apologize. I'm not trying to tell him what to do.
Q. I think it's easier for you and the jurors as well, sir.
A. Thank you.
Q. And the plan was in order to make money to get people to get oxycodone or some kind of controlled substances which you could then take and sell, right?
A. Yes.
Q. And make money?
A. Yes.
Q. I mean lots of money?

A. Make money.
Q. You made a lot of money on this, didn't you?
A. I wouldn't say a lot of money, but I've made money, yes.
Q. You paid for your estate in Pennsylvania in cash, didn't you?
A. Not with all oxycodone money, no.
Q. You paid for it in cash?
A. Not all in cash, no.
Q. The money you paid for it, you weren't working with a regular job, were you?
A. Was I working, yeah, I was working off the books as well.
Q. So was the house that you bought with drug money?
A. Some.
Q. But the plan, sir, was in order for you to get people that you could use to get these oxycodone scripts, right?
A. Could you repeat that again.
Q. My apologies. It was probably a poor question. Any time you don't understand the question, please tell me.
Your plan was to get people that you could use to send to a doctor to get oxycodone scripts and once you get those scripts filled, you then sell them and make money?
A. Yes.
Q. And to do that, you were looking with Mr. Nazario for people who were vulnerable people, right?
A. I wouldn't say vulnerable. Just people who was willing to

make money.
Q. Do you recall having a conversation with Mr. Nazario on July 31, 2014 where you and Mr. Nazario or Mr. Nazario is talking to you about he's got some vulnerable people and you saying that you needed six more patients; do you recall that?
A. I really don't recall it.
MR. KEHOE: With the Court's permission, may I approach?
THE COURT: Yes.
MR. KEHOE: Your Honor, this is marked as Defendant's Exhibit 136-T.
Q. I ask you to take a look at this and ask you to read it, please, and just see if it refreshes your recollection as to this conversation between you and Alberto Nazario.
A. I kind of recall this.
Q. Okay. Now --
MR. KEHOE: May I approach, Judge, just to retrieve the document?
THE COURT: Yes.
Q. Now, looking at this conversation, Mr. Cabrera, the plan with you and Mr. Nazario was to approach vulnerable people?
A. No. He stated that the guy was vulnerable. I never told him we was looking for vulnerable people.
Q. Well, the person that you were talking about --
A. I didn't know who we was talking about.

Q. You went and met him, didn't you?
A. No, I never got to meet the person.
Q. Did you --
A. I stated I would, but I don't even know who Twin is.
Q. This is a person that was described as having a bad back?
MS. ESTES: Objection.
THE COURT: Wait. Excuse me.
Sustained. The document is not in evidence.
Q. Do you recall this person's physical condition?
A. From what I just read, but I don't even know who the person was, who he was talking about.
Q. Based on the document, does it refresh your recollection as to what the physical condition of this person was?
MS. ESTES: Objection, calling for hearsay.
THE COURT: He's phrasing it in terms of whether he has an independent recollection, so I will allow that. Overruled.
MS. ESTES: He said he never met the person.
THE COURT: No, but the question was: Based on the document, does it refresh your recollection as to what the physical condition of this person was?
So that question can be answered yes or no, and if as you assert he never met the person, then the answer will follow from that. But the question was not improper in form and it did not call for hearsay. So let me rephrase it just so we can

move this along.

Independent of the document, do you have now any recollection of this conversation?

THE WITNESS: Yes, somewhat.

THE COURT: Okay. And the conversation referred to a person. What was -- do you recollect the name of that person?

THE WITNESS: From the document.

THE COURT: Don't tell me. Do you have an independent --

THE WITNESS: I didn't know who he was talking about.

THE COURT: Okay. And you never met that person?

THE WITNESS: I never met the person.

THE COURT: Okay. Did he, the person you were talking to, describe the condition of that person?

THE WITNESS: He stated that the guy was in a wheelchair, but whether or not, I never saw it.

THE COURT: Okay. There we go. Go ahead, counsel.

BY MR. KEHOE:

Q. Now, sir, this individual, this is the type of individual that you were looking for, wasn't it?

A. No. There's no one we had that was in a wheelchair.

Q. Are you saying that you weren't looking for vulnerable people?

A. No, I wouldn't say vulnerable people. People that was willing to make money and maybe people that had some type of

ailments.
Q. Sir, wasn't one of the primary places where you got patients a place called Bread & Life?
A. Yes.
Q. Bread & Life is a soup kitchen, isn't it?
A. Yes.
Q. Homeless people?
A. Yes.
Q. Very poor people?
A. Yes.
Q. People that are jobless?
A. Yes.
Q. People that have psychiatric problems?
A. Yes.
Q. Drug problems?
A. Yes.
Q. And that's the place that you went to to get patients, right?
A. Well, Nazario -- yes, yes.
Q. The other people that you went to was, one of the other places that you went to was a place called Interfaith Hospital, right?
A. I went there personally.
Q. Excuse me?
A. I went to Interfaith Hospital.

Q. You went to Interfaith Hospital?
A. Yes.
Q. And Interfaith Hospital is a hospital, again, that treats people with serious psychiatric disorders, right?
A. Yes.
Q. Somebody like who was going to Interfaith Hospital?
A. Myself. People that I knew? Only one person I think I could recall that went there.
Q. Was that Wilfredo Stretz?
A. Yes.
Q. And Mr. Stretz has, again, serious psychological problems, doesn't he?
A. I believe so.
Q. Serious emotional problems?
A. Maybe.
Q. And serious drug problems, doesn't he?
A. No, not that I'm aware of.
Q. Well, let's go back to the people that you were in fact recruiting. So you would agree with me based on what you just said that you were taking in the homeless, the jobless people with psychiatric problems and a myriad of --
A. I didn't say I was just taking them. You said whether or not these type of people go to the Bread & Life, which I agree, yes, they do go there.
Q. And but those, it was from that pool of people that you got

your patients, didn't you?
A. Yes.
Q. And then it's also from, taking Wilfredo Stretz as an example, someone with psychiatric problems, you got him from the Interfaith Hospital, right?
A. I wouldn't say I got him from the Interfaith Hospital, but he just happened to be going to the same hospital as me.
Q. And you when you were going to the same hospital and you were both receiving psychiatric treatment, you asked him whether or not he wanted to get money in return for his psychiatric scripts, right?
A. I don't recall exactly how that went about. But we've met and intertwined in the same neighborhood for quite some time before we even came about the dealings.
Q. You recruited people who needed money, didn't you?
A. Who was willing to make money, yes.
Q. That's not my question, sir. You recruited people that needed money, right?
A. Mostly.
Q. And these were poor people, weren't they?
A. I guess so.
Q. And in one of your interviews do you recall telling the FBI that you -- let me withdraw that for a moment, Judge, and rephrase that question. I think you noted -- because I just want to lay a foundation for this, Judge, for my next question.

My apologies.

I think you told us in direct examination by my learned friend that you got the oxycodone and that you paid these people a certain amount of money for the oxycodone that you sold; is that right?

A. I don't understand what you mean. I paid for the oxycodone or --

Q. You got the oxycodone, you sold it to a drug dealer, and then you gave money to the patients?

A. Right.

Q. And do you recall telling the FBI that you got these patients the best deal possible for their prescriptions?

A. For the oxycodone?

Q. Yeah.

A. That whatever we agreed on, like, you know, I tell them amount or they'll tell me what they wanted and we agreed on the amount.

Q. Let me rephrase it. Didn't you tell law enforcement that you got these patients the best deal for their prescriptions?

A. I can't recall the exact words. But all I know is that I would speak with the people, we basically would come up with an agreement. I would tell them a price or they would give me a price and we agreed on a price and that's what they got paid.

Q. If I showed you something -- you said you don't recall exactly what you said. If I showed you something, might that

refresh your recollection as to what you told law enforcement?
A. Okay.
MR. KEHOE: Again, your Honor, we're dealing with for the record 3504-1.
Q. And I ask you to read the top sentence and ask you if it refreshes your recollection as to what you told law enforcement about getting these patients the best deal possible?
A. The top part right here?
Q. Yes, sir.
A. It doesn't say the best price right here. Best deal. I could have said that, yes.
MR. KEHOE: May I approach, Judge? I apologize.
THE COURT: Yes.
Q. So, Mr. Cabrera, when you were telling them that you were getting the best deal possible, in fact, you were trying to pay these folks as little as possible, weren't you?
A. I wouldn't say as little as possible, but I was trying to make the most money as possible, yes.
Q. I mean you were trying to pay them as little as possible so you could make the most money?
A. No, whatever we agreed on.
Q. Do you recall having a discussion with law enforcement on April 6 of 2016 where you advised them that you would pay the patient what you could get away with?
A. I wouldn't say get away with, but what I feel that they

would accept.
Q. My question is do you recall telling the FBI that you would pay these patients what you could get away with; do you recall telling them that?
A. Do I recall, not really.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. I'm going to show you 3504-2. Try to get the right page here. I ask you to take a look at the bottom of this document and ask you whether or not you told the FBI -- I'm talking about the last paragraph -- told the FBI that you would pay these patients what you could get away with?
THE COURT: Again, the question is whether having seen this document it refreshes you so that you have an independent recollection of having said something like that. The document is not in evidence. It may be anything at all -- it may be accurate, inaccurate. The only question for you is whether it refreshes your recollection. If it does, we want to hear your recollection. If it doesn't, so be it.
A. Somewhat.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. So, Mr. Cabrera, it is in fact, it is a fact that you told the FBI that you would pay these patients as much as you can get away with or as little as you can get away with; isn't that

right?
A. Yes.
Q. So these people who were sick, poor, jobless, and needed money, you made a decision when you were paying them that you were going to pay them as little as you could get away with; isn't that correct?
A. It didn't work out that way.
Q. You made a decision to do that, didn't you?
A. I paid them accordingly. They didn't get -- the less they got was half.
Q. Well, sir, at the same time you were making quite a bit of money on this, right?
A. I mean they had to be split in other ways because we was part of an oxycodone ring. I would have to pay the person to bring in the urine. I have to pay the person that is sitting with the people, you know. So it wasn't just I was getting a piece of the money. A little bit of the money was going everywhere.
Q. This was a business, wasn't it?
A. Yeah.
Q. And you had a somewhat broad reaching arrangement in this business?
A. I wouldn't say broad, but it was a few of us.
Q. But in this business decision when dealing with these poor people --

A. They have to still get the most amount of money because if not, it's their decision, they go somewhere else. So regardless, they have to get the most amount of money.
Q. Mr. Cabrera, in dealing with these poor people, you made a business decision to pay them as little as you possibly could, didn't you?
A. They never got paid little. That's what I'm trying to tell you. They got the majority of the money.
Q. They got the majority of the money?
A. Yes. So you figure if I'm making $1,400 out of the deal and I'm giving the person six to seven to $800, how much of a cut do I get.
Q. Let's see. Let's stay on this topic for a moment because I believe that you told the government yesterday on direct that you were getting -- that you were selling these pills for seven, eight or $9 a pill?
A. Yes, in that area.
Q. Likewise, didn't you tell the government in an interview that you -- by the way, who was Shorts?
A. One of the drug dealers I dealt with.
Q. What's his name?
A. Shorts.
Q. What's his name?
A. I don't recall his government name.
Q. What's his real name?

A. Shorts. Well, if you would come from the type of environment and place that I come from, we don't usually walk around and say I'm from Brooklyn, East New York, and Bed-Stuy. These are our areas. We don't walk around talking about how you doing, John Smith. If a person tells you their name is Ice, their name is Ice. If they tell you their name is Pink, their name is Pink. That's how we go about addressing each other. We go about addressing each other maybe ten, 15 years like that without knowing each other's government names.
Q. So how long did you know Shorts?
A. I would say a few years.
Q. Are you telling this jury that you don't know his name?
A. I've been told his name, but, yeah, I don't recall his name. Because the day of my arrest, they was pounding me about who Shorts was and honestly, I didn't even know his government name.
Q. Do you know his name now?
A. It was told to me, but I can't recall his government name.
Q. Let's talk about the day of your arrest when they were talking to you about Shorts. You just said they were asking you about Shorts?
A. Yeah.
Q. Did you tell them how much Shorts was paying you for 90 30-milligram tablets of oxycodone, do you recall?
A. I recall something like that.

Q. And you told them that Shorts was paying you $1,200 for 90 tablets of 30 milligrams?
A. It varied on days. I could have said that. It varied. The market sometimes goes up, it goes down. It could vary at any day.
Q. Well, I mean in the case of Shorts, it varied up, didn't it?
A. At times.
Q. Didn't you tell the FBI that Shorts paid you $1,400?
A. Yeah. It sounds about right, yes.
Q. So $1,400 for 90 30-milligram pills is over $15 a pill, isn't it?
A. Could be.
Q. Do the math. You're a businessman.
A. I didn't do the math.
Q. Isn't that a rough approximation, 15, maybe 15 and a half?
A. It could be, yeah.
Q. And that's almost, $15.50 is almost double the seven, eight, $9 that you were selling the pill?
A. Yeah, it varied.
Q. So did the patients reap the benefits of your rewards when the price went up?
A. At times.
Q. Who, when? Who and when?
A. I don't recall the dates, but there was times. If not,

they went somewhere else and I couldn't stop them from going somewhere else. There was plenty of people went independent.
Q. Mr. Cabrera, these people were poor, sick, psychotic?
A. Not all was poor and sick. They was all on the scam just like me.
Q. They were all on the scam just like you?
A. Yeah, meaning that we brought it to their attention. They agreed, they wanted to get down with it and they wanted to make some money.
Q. Well, sir, these same people that you were selling drugs -- selling or buying the oxycodone with, sometimes these people from the Bread & Life you paid with crack, didn't you?
A. Yeah, if that's what they wanted.
Q. Again, Mr. Cabrera, in doing this transaction with these people coming from this soup kitchen, the Bread & Life, you made a decision that it was better for you to buy this oxycodone with crack cocaine than it was to not do the deal at all, right?
A. Listen, if the person wanted crack, we got them crack. If they wanted dope, we got them dope. If they wanted a box of Cheerios, we got them a box of Cheerios. It didn't matter. It's whatever they wanted to do. Because at the end of the day, if they wanted to go somewhere else with that prescription and sell it to someone else, they could have done it. So it didn't matter.

Q. So these people from the Bread & Life just could have picked up and gone with anybody else other than with Gilberto Cabrera?
A. Yes. I would have been upset, but, yeah, they could have.
Q. And when in fact that happened, when someone from this group of people did go to a third party or did take his scripts away, you got very upset, didn't you?
A. I wouldn't say very upset, but I would be upset, yes.
Q. When Alberto Nazario -- excuse me. When Mr. Stretz took his scripts and went someplace else, you got very upset, didn't you?
A. Wilfredo never got oxycodone prescriptions.
Q. That's not my question. He got antipsychotic prescriptions. He got a lot of prescriptions because of his mental condition?
A. And I never bought his prescriptions, meaning any prescriptions that Wilfredo had ever given me for his mental or psychotic, he always got that medication back. The only agreement we had was I would give him, 30, $40, or not even that. There was on occasions that he borrowed multiple times of money for me for his mother or illnesses or whatever. I would lend him the money. And in exchange that he would give me the prescriptions because Danny, me and Danny had the agreement that as long as I brought bulk of prescriptions, it didn't matter from where or who or whatever, as long as I kept

bringing bulks of prescriptions to his pharmacy, he would continue to dispense the oxycodone to me.

So that's what I did. I offered Wilfredo Stretz 30, $40 just to give me his prescriptions so I could fill them in at Danny's pharmacy and I would give him back his medicine. But he wasn't involved in the oxycodone with me, no.

Q. When Mr. Stretz took the scripts to another pharmacy, you got very upset, didn't you?

A. I could have got upset because he had owed me money because I think he borrowed a couple hundred dollars from me and I didn't understand why he would do that.

Q. You broke his ribs, didn't you?

A. Who, Wilfredo? No.

Q. How big is Wilfredo Stretz?

A. He's probably a little shorter than me.

Q. And he weighs about 130 pounds?

A. No. I'd say more or less maybe 170 pounds. You got a picture of him? Show him here. I never put a hand on Wilfredo Stretz a day in my life.

Q. Your testimony as you sit here is you did not break Wilfredo Stretz's ribs --

A. No. I don't care what you say. I never put my hands on Wilfredo Stretz a day in my life.

Q. And your testimony is, and I want to finish my question for the record, that you didn't, that after Wilfredo Stretz moved

his scripts to another pharmacy, you and your anger did not break his ribs?
A. No, and we still dealt with each other after that, so I don't know what you're talking about.
Q. Okay.
A. Actually, we still were dealing with each other when I came home from prison. He didn't tell you --
THE COURT: You've answered the question. And I think now the microphone may be a little too close. All right.
Q. Now, in addition to money and in addition to crack, let me withdraw that for a moment and ask a foundational question.
These folks, these poor folks at the Bread & Life, in fact were many were living on food stamps, weren't they?
A. Yeah, some were, yeah.
Q. And when the oxycodone was being sold to you, you were what, exchanging this for food stamps; is that right?
A. What, the oxycodone? No.
Q. What did you do?
A. Well, for the food stamps? I, for instance, where I'm from, the inner city, people will borrow money from you, say, for instance, maybe 100, $150, whatever it is, and maybe they can't pay you all of it at that time and they'll offer you their food stamp card saying can I pay you 50, $60 out of my food stamp card. Sure, why not.
Q. Let's just follow that up. And in those instances where

you were selling crack and heroin to these food stamp holders, did you take payment in food stamps?
A. At times I did.
Q. How many times did you do that?
A. I don't recall. Not for crack or nothing. But when they borrowed money, they wanted to pay me back, that's how it happened.
Q. Do you recall telling the FBI that sometimes people paid you for drugs in food stamps; do you recall that?
A. Yeah, if they owed me money, yes.
Q. That's not the question.
A. If they owed me money, if they choose to give it me, I didn't ask them to give me their food stamp card or threaten them or anything like that. That was their choosing. They owed me money, they felt like if they could have paid me with the food stamps, I took it and I gave them back their card. They was pleased with it.
Q. So the answer to the question is you did in fact allow these people to pay you for crack and heroin with food stamps?
A. I'm not going to say they paid me for crack with food stamps. All I know is if people owed me money, whether or not it was for crack or I lent them money, I don't recall exactly. If they owed me money and they wanted to pay me that way, it was fine.
Q. Let's be clear. Do you recall telling the FBI and the U.S.

Attorney's Office that people paid you for drugs in food stamps, yes or no?

A. I could have said that, yes.

Q. You could have said that?

A. Yes.

Q. So the drugs that they were paying you for were crack and heroin?

A. Mostly crack.

Q. So, again, we have these people from the Bread & Life food kitchen, these poor people with food stamps, and you were taking their food stamps in return for crack cocaine?

MS. ESTES: Objection.

THE COURT: You can save your summation like comments for summation.

MR. KEHOE: Yes, your Honor.

Q. Now, the people that you were recruiting, these people from the Bread & Life soup kitchen or from Interfaith Hospital or anywhere else, these people were actually sick, weren't they?

A. Yeah, but our oxycodone people, they didn't come all from the Bread & Life. We used the Bread & Life people for extra prescriptions to bring to Danny's pharmacy. We would offer them money. We would give them 20, $30. They would give us their prescriptions. I would bring to Danny's pharmacy and bring back the people's prescriptions in a bag. Everybody involved wasn't all from the Bread & Life, no. There was probably a couple, but everybody was not from the Bread & Life involved with the oxycodone.

Q. Mr. Cabrera, the patients that you were recruiting and using --

A. For the extra prescriptions, yes, came from the Bread & Life, yes.

Q. Let me finish and I'll give you as much chance as you need to talk.

The patients that you were using had actual medical problems and medical needs, didn't they?

A. I will say it again. The majority of the people that we used from the Bread & Life was to get their prescriptions to bring to Danny's pharmacy so I could have a bulk of prescriptions.

Q. Mr. Cabrera, let us look at these people that you were --

A. If you give me names, I'll tell you whether or not they came from the Bread & Life. How is that.

Q. I'll ask the questions, sir.

You had patients that you used such as Sheri Bowen --

THE COURT: Whoa. Let him finish the question.

Q. Sheri Bowen, she worked at the Bread & Life, right?

A. Yes, and she also worked as a realtor.

Q. She was working there and that's where you came in contact with her, right?

A. No. Actually I came in contact with her outside of that by

Alberto Nazario.
Q. Let's stay with Sheri Bowen.
A. Okay.
Q. She was bipolar, right?
A. I believe so.
Q. She was a paranoid schizophrenic, was she not?
A. I don't think so because we hung out a couple of times.
Q. Did you ever learn that Sheri Bowen was a paranoid schizophrenic?
A. I'm not sure if she was or not.
Q. The bottom line was, the bottom line was Sheri Bowen needed psychiatric care, didn't she?
A. I'm not sure. Like she would get HIV medications and she didn't have HIV, so I'm not sure.
Q. You know with regards -- you don't know that she had psychiatric problems?
A. I knew she was getting psychiatric medications, as well as she was getting HIV medicines and she didn't have HIV.
Q. And Sheri Bowen went to a third person who did have HIV to get tested so she got HIV meds, was that right?
A. If that's what she did.
Q. Did she do that pursuant to your instructions?
A. No, not to my instructions.
Q. Now, let's just stay with your nephew, Mr. Hespeth. He had psychiatric problems, didn't he?

A. He was getting psychiatric medications, yes.
Q. He had psychiatric problems, didn't he?
A. He had some issues, I guess.
Q. What was his issues?
A. I'm not sure.
Q. Well, he needed psychiatric medication, didn't he?
A. Yeah.
Q. And he was getting psychiatric medication from Mr. Gohari's pharmacy, wasn't he?
A. Yes.
Q. And he was using it, wasn't he?
A. Yes.
Q. So this was a potentially sick person, right?
A. I guess.
Q. Well, you were getting psychiatric medicine from Mr. Gohari's pharmacy, weren't you?
A. Yes.
Q. And that's because you had psychological issues?
A. Yes.
Q. And what are those?
A. I was diagnosed with bipolar disorder.
Q. And that causes any number of issues for you; is that right?
A. Yes.
Q. Memory loss?

A. No.
Q. Are you saying that that doesn't cause any memory loss?
A. I don't know if it causes, but I was diagnosed with bipolar disorder where I would get nervous and stuff like that.
Q. And what happens when you're not on it?
A. When I'm not on it?
Q. When you're not on medication to ease up the bipolar?
A. I get paranoid at times.
Q. Are you on it now?
A. Excuse me, no.
Q. You're not taking that?
A. No.
Q. Now, Wilfredo Stretz that we talked about --
A. Yes.
Q. -- he got psychiatric medicine too?
A. Yeah.
Q. And he needed it, didn't he?
A. I believe so.
Q. He was going to -- you met him at the Interfaith Hospital?
A. I met him in the neighborhood, but he went there as well.
Q. In dealing with him, he had some serious issues, didn't he?
A. He had some issues, I believe, yes.
Q. And he was another one of your patients, wasn't he?
A. He was a person I was getting the extra prescriptions from so I could bring to Danny's pharmacy, yeah.

Q. Now --
A. But he always got all his medications.
Q. Is it your testimony that you never took any of Mr. Stretz's psychiatric medications?
A. I always gave him his medication.
Q. Is it your testimony that you never took any of Mr. Stretz's psychiatric medicines?
A. What, physically kept them?
Q. Kept them.
A. No, I never kept his medicine. He probably never came and picked up his medicines, but he came and got them, but he always got his medicine. There's been times because I live in PA that his bag would be left over at my nephew's house or something, we would tell him to come get it. But he got all his medicine, yes.
Q. Now, George Tirado, you know George Tirado, you identified him in one of the photographs?
A. Yes.
Q. He had psychiatric problems too, didn't he?
A. Yeah, I guess.
Q. And he had physical problems, didn't he?
A. I believe so.
Q. Well, he was going for physical therapy because of his physical problems, wasn't he?
A. I guess, yes.

Q. Do you recall having a conversation with him --

MS. ESTES: Objection.

THE COURT: Ground?

MS. ESTES: Hearsay.

MR. KEHOE: I'm laying a foundation, Judge, for refreshing recollection.

THE COURT: For now I'll sustain the objection, but see if you can lay a foundation.

Q. Do you recall having a conversation in April, excuse me, August 14, 2015, where you talked about Mr. Tirado's physical condition with him?

THE COURT: Just answer that yes or no.

A. With George, I spoke to George personally?

Q. Yeah, George.

A. I might have. I spoken to him on many occasions.

Q. My question is quite simple. On August 14 --

A. I don't recall that date, no.

MR. KEHOE: If I may, Judge, may I approach, Judge?

THE COURT: Yes.

MR. KEHOE: What I'm referring to here is for the record Defendant's Exhibit 106-T. May I approach?

THE COURT: Yes.

Q. I want to show you this document. Just read it to yourself.

THE COURT: After we're through with this item, we'll give the jury their midmorning break.

MR. KEHOE: Yes, your Honor. I should be brief.

A. Yeah, I recall some of this conversation.

Q. I'm sorry?

A. Yeah, I recall.

Q. You do recall a conversation with Mr. Tirado August 15, excuse me, 14?

A. If that was the date, yes.

Q. August 14, 2015, where he talked to you about getting --

MS. ESTES: Objection.

THE COURT: Let me see the document. I'm going to allow it, but maybe we'll give the jury their break first so I can explain or hear from counsel on this issue and then you'll have the guidelines in mind, both counsel, when they come back.

So, ladies and gentlemen, we'll give you a 15-minute break at this time and we'll see you in 15 minutes.

(Continued on next page)

(Jury not present)

THE COURT: Mr. Cabrera, you can step down. We'll see you in 15 minutes.

THE WITNESS: Thank you, your Honor.

(Witness not present)

THE COURT: Please be seated.

So I think part of the problem is in the wording of the questions. What is relevant is whether the witness had an understanding that Mr. X or Mr. Y or Mr. Z, that with whom he was arranging these various deals, suffered from one or another physical or mental infirmity because that would support defense counsel's argument, which I think is made clear that he was taking advantage of people like this. But the problem is many of the questions are of the form didn't Mr. X suffer from bipolar disorder, or something like this, as opposed to didn't you have an understanding or a belief that Mr. X suffered from bipolar disorder. So without that those additional words, it becomes a hearsay problem, which is why the government objected. So just I think we can solve this problem by just rewording.

MR. KEHOE: Yes, your Honor.

THE COURT: I am concerned that many questions are being asked again and again and again. On cross-examination certain leeway is permitted because you don't always get the final answer on the first go-round. On the other hand, we already -- it becomes a waste of time and we need to be conscious of time given how much we still have to cover in this case.

Let me ask defense counsel, how much more do you have on cross?

MR. KEHOE: Your Honor, I will of course be guided by the two instructions that your Honor just gave. I do have quite a bit to go through. I think that we covered quite a bit of territory.

THE COURT: I'm not complaining about having quite a bit. What I want is a ballpark estimate.

MR. KEHOE: I think probably late this afternoon I'll probably finish.

THE COURT: I would be disappointed if we did not finish this witness today.

MR. KEHOE: Yes, your Honor.

THE COURT: All right. That would include, of course, leaving some time for redirect. And we're only going to 3:30 today.

MR. KEHOE: Yes, your Honor.

THE COURT: You've had already over an hour. You'll have two more hours before lunch and you'll have at least an hour after lunch. So that seems to be a good way to proceed.

Okay. Very good. We'll see you in 15 minutes.

(Recess)

(Jury present)

BY MR. KEHOE:

Q. Mr. Cabrera, going back to where we left off, it was your understanding that Mr. Tirado was getting physical therapy?

A. Yes.

Q. He was getting physical therapy because he needed it, isn't that right?

A. From what I have read here --

THE COURT: No, no. The only question is what was your understanding at the time.

THE WITNESS: Of this conversation?

THE COURT: Yes. Don't read the conversation. Just say as best you can what you recall.

A. So that he could continue to get his oxycodone.

Q. He was getting physical therapy, was he not?

A. Yes, in order to continue to get his oxycodone.

Q. He was getting psychiatric treatment?

A. Yes.

Q. Let's go through some of these people. Danny Joyner, your understanding was that he had serious injuries from getting run over in a car, right?

A. Yes.

Q. Mr. Joyner was a person who was in pain and needed oxycodone legitimately, right?

MS. ESTES: Objection.

THE COURT: Sustained.
Q. Is it your understanding he was in pain because he got run over by a car at some point in his life?
A. Prior to that, yes. But he wasn't taking oxycodone.
Q. You were taking oxycodone; you were getting oxycodone as well, right?
A. Yes.
Q. That's because you were shot?
A. Yes. Multiple times, yes.
Q. Multiple times?
A. Yes.
Q. On more than one occasion?
A. Yes.
Q. We'll get into that in a bit. Leslie Stewart, it is your understanding that he had injuries because he was a boxer?
A. Yes.
Q. Mr. Luther, is it your understanding that he had injuries because he was a football player?
A. Yes.
THE COURT: Counsel, forgive me. I need to have you come to the side bar.
(Continued on next page)

(At the side bar)

THE COURT: The court is always loath to intervene when there is no objection from counsel, and usually I only do so if there is a need for clarification or something is so beyond the permits of the law that I have to intervene. So I haven't intervened in any of these questions about what he knew about the infirmities of various persons who he had arrangements with because the government has not made any objection to that subject matter on relevance grounds. But since it is going on at such great length, I think I need to inquire what is the relevance.

MR. KEHOE: Just saying that these people actually had these injuries, and we will then go to the next step of taking him to the doctor. I'm taking your Honor's guidance on time and trying to get through it without refreshing recollection with a number of documents, which, as your Honor knows, takes a bit more time than just saying isn't it your understanding and moving on.

THE COURT: I'm still not clear what you are saying is the relevance.

MR. KEHOE: He is taking people with legitimate injuries to doctors, and then he is going through the entire scam of getting oxycodone prescriptions from these doctors after physical examinations of giving them dirty urines, giving them phony MRIs. It is all part of his plan, his structured plan to dupe everybody, with the ultimate goal being the duping of the pharmacy and the pharmacist Mr. Gohari, as I said in my opening statement.

THE COURT: How is his understanding of a particular person's mental or physical infirmities evidence of his duping them?

MR. KEHOE: Judge, he is not taking someone like the people standing around in this group. He is taking unhealthy people and he is making them part of his plan. The whole plan is not going to work if you take healthy people, Judge. If you take people that are going about their way with completely nothing wrong with them, the whole plan is not going to work.

His plan is working because he is taking people that do have these infirmities, he is getting their prescription, taking it from them, selling it, and giving them a pittance back. So there is a planned reason why he is focusing on these people and not just taking any person who for all intents and purposes might be healthy.

THE COURT: What is the relevance of that to the charges in this case?

MR. KEHOE: Because he is taking these people, taking them to doctors, and he is duping these doctors, he is duping the doctor to get these scripts with everything that was just brought out on direct examination by counsel for the government, the dirty urines, going to these doctors and getting the scripts. Then his next step is to dupe the pharmacy in order to fill these because he is saying that these people are entitled to this. That's our defense, that these people are entitled to these scripts.

THE COURT: Okay. I will allow it.

(Continued on next page)

(In open court)

BY MR. KEHOE:

Q. Did you tell us yesterday that the first person that you took to the pharmacy was Perry Luther, the individual with the football injury? Is that right?

A. If I recall, yes.

Q. Was he in fact the first person that you took?

A. It could have been. I'm not quite sure. I brought so many people.

Q. Let me ask you a question. Did you tell the FBI back in April 6, 2015, that the first person you took to the Afam Pharmacy was Loretta McKesson, did you tell them that?

A. First person?

Q. Yes.

A. I probably said that.

Q. Yesterday you said Perry Luther was the first person that you took, and when you were talking to the FBI back in April of 2015, you told them it was Loretta McKesson?

A. I really couldn't recall. It's just I brought so many people, it was hard for me to keep track of who was the first.

Q. Did you tell us yesterday that the person who brought you to the pharmacy was an individual by the name of Pookie, and then I think you had a picture come up here that said it was Mr. Seaman, is that right?

A. Yes.

Q. Did you tell the FBI in that same interview on April 6th, 2016, interview that the person who brought you to the pharmacy was someone by the name of Tina but you didn't know her last name?
A. There was a few people I went into the pharmacy with because there was a ring going on outside this doctor's office and they was bringing prescriptions back and forth to Danny's pharmacy. Guys would have like three, four copies of people's Medicaid cards and three or four different prescriptions, and they would go to Danny's pharmacy, so I would go with them to make my presence known.
Q. You didn't tell us anything about Tina yesterday, did you?
A. Not that I can recall, no.
Q. Was it Pookie or was it Tina?
A. It was both.
Q. So it was you, Pookie, and Tina --
A. Oh, at the same time? I don't recall who was first or second, but it was all around the same time.
Q. When you talked to the FBI in April of this year and you told them it was Tina, you didn't know Tina's last name, is that right?
A. Yes.
Q. You didn't tell them anything about Pookie, right?
A. I'm not sure, but I did tell them about Pookie as well.
Q. Do you recall not telling them about Pookie when you said

the first person that brought me to the pharmacy was Tina last name unknown?
A. I don't really recall.
Q. Let me see if something refreshes your recollection.
A. It was so long ago, I just don't recall like who was the first person. But I went in there with all those individuals.
Q. 3504-2.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. I ask you to read the third paragraph.
A. Okay. It doesn't say anything about Tina.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. Does that refresh your recollection that what you told the FBI back in April of this year was that the first person that you went to the pharmacy with was Tina?
A. I could I have said that, but I don't recall really who was the first person. I went with Tina and I went with Pookie and I went with like one or two other individuals. So I really can't recall who was the first person.
Q. You didn't tell the FBI anything about Pookie, did you, back in April?
A. I'm not sure. I know I spoke with Pookie, I know that. But I'm not sure back in April or May or whatever month it was.
Q. When you testified yesterday, you didn't say anything about

Tina, did you?

MS. ESTES: Objection. Asked and answered.

THE COURT: Sustained.

Q. Let's move on, sir. The next step after you got these patients was to take them to doctors for examination, is that right?

A. For an examination?

Q. You took them to individual doctors' offices so you could get them examined and they could get a script, be it for psychiatric items, for asthma, for oxycodone, whatever?

MS. ESTES: Objection. Form.

THE COURT: Sustained.

Q. When you got these patients, did you get them to go to doctors?

A. The only doctors that we had them going to was to get oxycodone.

Q. You took them to these doctors, and sometimes you stayed in the waiting room while they were being examined, didn't you?

A. Waiting to see the doctor, yes.

Q. Sometimes your nephew Mr. Hespeth did the same thing, right?

A. Yes.

Q. This was to make sure that these patients actually went to these doctors, correct?

A. No. We just waited.

Q. You waited with them?
A. Yes, waited for them.
Q. When you were waiting for them and you were actually there, isn't it true, sir, that you in fact gave your contact number to various medical entities to be contacted in the event one of these patients had a problem, didn't you?
A. I personally gave them? No. It was just like maybe one or two that didn't have steady phone numbers that I gave them my number.
Q. Who was that?
A. I believe it was Jorge Tirado and Benn Darin. It might have been also Holliman and maybe one other, one or two other people.
Q. Do you recall a conversation coming in from a medical facility, a radiologist, the radiology department, for Mr. Holliman where you were actually -- to your phone that was taped -- that you were actually presenting yourself as Mr. Holliman? Do you recall that?
A. Yes. They called asking for him. I just agreed to say I was him so I could relay the message to Holliman.
Q. So the hospital calls you looking for Mr. Holliman, you tell them you're Mr. Holliman, is that right?
A. I said yes.
Q. In that way you could keep track of what Mr. Holliman's next appointments were going to be and what hospitals he had to

go to, isn't that right?
A. No. He just didn't have a steady number. Usually, after they went to the doctor's appointment, they got that appointment that day.
Q. Sir, you just could have said to her, I'm Gilberto Cabrera, Mr. Holliman's good friend, tell me what I need to tell him.
A. I didn't do that. I just said yes.
Q. You acted like you were in fact Mr. Holliman?
A. I guess.
Q. You also got a phonecall with regard to Mr. Tirado. You got a phonecall from another physician for Mr. Tirado, and you pretended to be Mr. Tirado, didn't you?
A. Yes.
Q. You took information about Mr. Tirado and what Mr. Tirado was supposed to do, all the time misleading this person at the medical facility that you were Jorge Tirado?
MS. ESTES: Objection. Compound.
THE COURT: Sustained.
Q. You weren't Jorge Tirado, were you?
A. No, I wasn't Jorge Tirado. That conversation was concerning about they needed to see him for his heart or something to that effect, and he didn't have a number, a contact number. I always was in contact with him, so I just related the message.
Q. Sir, you told this medical facility, this cardiologist,

that you were Jorge Tirado, didn't you?

MS. ESTES: Objection.

THE COURT: Ground?

MS. ESTES: Foundation.

THE COURT: I assume counsel has a good faith basis for that.

MR. KEHOE: I'll withdraw it.

Q. Do you recall having a conversation on August 26, 2016, with the radiology compartment concerning Jorge Tirado where you presented yourself as Jorge Tirado? Do you recall that conversation?

A. I vaguely remember the conversation.

Q. In that conversation you did not say I'm Gilberto Cabrera, Jorge Tirado's friend? You presented yourself as Jorge Tirado, didn't you?

A. I guess so, yes. Actually, they said Jorge Tirado, I said yes, and they proceeded to let me know about an appointment.

Q. Moving ahead, sir, part of your plan in dealing with these doctors was to ensure that the patients that you brought them were going to get oxycodone scripts, right?

A. Yes.

Q. You came up with a plan to give them urine that had oxycodone in it, didn't you?

A. Yes.

Q. Initially, you scraped oxycodone into urine and had these

patients use it, right?
A. Yes.
Q. That was your idea, wasn't it?
A. No.
Q. You're the one who was conducting this business.
A. Actually, it was Alberto Nazario's idea.
Q. It was Alberto Nazario's idea, and you just took it and ran with it?
A. Yes.
Q. There came a time when a doctor caught you doing that, didn't he?
A. Not me. But he basically found out through a patient that they was putting shavings inside the urine.
Q. Who was that doctor?
A. Dr. White.
Q. Dr. White was the doctor that you talked about yesterday?
A. Yes.
Q. Dr. White was the doctor that threw you and your patients out of his office, didn't he?
A. No, he didn't throw me out. He threw out some Other patients.
Q. Who did he throw out?
A. I think it was Alberto Nazario, Perry Luther. A few guys he had thrown out.
Q. But the plan, Mr. Cabrera, was to fool these doctors into

believing that these patients were actually taking oxycodone, wasn't it.
A. Yes.
Q. After your shaving plan didn't work, you changed the plan a bit, didn't you?
A. Yes.
Q. You actually gave them urine from someone that had actually taken oxycodone?
A. Yes, my urine.
Q. You gave them your urine?
A. Yes.
Q. So all these times when they had urine with oxycodone, it was yours?
A. Yes.
Q. I thought you told us this morning that part of your business arrangement was you to pay people for dirty urine.
A. Not dirty urine.
Q. Didn't you say this morning, about an hour and a half ago --
A. A dirty urine?
Q. Excuse me. Didn't you say about an hour and a half ago that as part of your expenses in your business, you had to pay the person for the urine? Didn't you say that?
A. Pay? I don't recall saying I paid a person for the urine.
Q. You don't recall --

A. No. I said bring in the urine to the patient. That's the difference, bringing. Like I would give them my urine, put it in a bottle, and pass it to someone, and they would go bring it to it patient.
Q. Who was that?
A. Robert Hespeth or Alberto Nazario or whoever.
Q. That was part of your business expense?
A. That was part of how we did things, yes.
Q. Then we move into the next form of this, where you gave your urine with oxycodone to these patients?
A. Yes.
Q. So they would go in and fool the doctor into believing that they were taking oxycodone?
A. Yes.
Q. That was, again, a plan that you had taken from Alberto Nazario and that you came up with, didn't you?
A. Yes and no.
Q. What's the yes and what's the no?
A. He came up with the idea, and then I was like I'm saying the oxycodone, maybe we could just use my urine.
Q. That was after you got caught at Dr. White's, wasn't it?
A. Yes. I didn't get caught. I was always using my urine, so I didn't have no issues with Dr. White.
Q. I'm just talking about when you were fooling it with other people.

A. Okay.
Q. You never told these doctors that this is not the urine of the patient that is before you, is it?
A. No, they never asked.
Q. They never asked?
A. No.
Q. They assumed, the doctors, from your knowledge -- excuse me. I withdraw that question. You don't have any information to believe that these doctors believed that urine was yours?
A. No, I don't think so.
Q. They go in with urine that has your oxycodone urine in it and they go in and get a physical examination in these doctors' offices, don't they?
A. Yes.
Q. Based on that physical examination, you were getting oxycodone scripts, right? The patient was getting an oxycodone script?
A. No, no. I would give them the urine once they get the oxycodone prescription.
Q. They were leaving the oxycodone with the doctor for testing, weren't they?
A. No.
MS. ESTES: Objection.
THE COURT: Ground?
MS. ESTES: Foundation.

THE COURT: I think the witness was about to -- he said no. Put another question.
Q. Mr. Cabrera, you gave your patients this urine so they could give it to the doctor's office for testing, didn't you?
A. Yes.
Q. Your urine had oxycodone in it, right?
A. Yes.
Q. You were doing that to lead these doctors to believe that the patients that were being brought there were taking oxycodone?
A. When he first initially went there, their records never had that they were getting oxycodone, the patients that we were bringing.
Q. You wanted this doctor to believe this patient --
A. After they would get the prescription, the next visit they would have to supply urine, then yes.
Q. So it is the second visit that you did it?
A. Yes. They would use the urine.
Q. You bring a patient in that doesn't need oxycodone, you try to fool the doctor there, and then you next bring the doctor in the second appointment with the dirty urine to fool them further?
A. No, the doctor wouldn't bring the prescription then.
Q. But you brought the dirty urine to fool them further on the second visit, right?

A. Make them seem like they was taking the drug.
Q. You made it seem like they were taking the drugs so the doctor would continue to write oxycodone, right? That was your plan?
A. Yes.
Q. The other side of your plan was to use MRIs as visual imaging files, too, right?
A. Yes.
Q. You used MRIs that you got from a doctor's office, right?
A. I don't understand.
Q. You had MRIs that you had your patients bring into a doctor's office that were not MRIs of the patient, right?
A. No, just one person had it.
Q. Who did that?
A. Willie Johnson. But he didn't bring in an MRI. He brought in a paper. He didn't bring in an actual MRI.
Q. Didn't you have fake MRIs, sir, for Willie Johnson, Mr. Hespeth, and Benn Darin?
A. No, they never used any.
Q. Willie Johnson you just said used MRIs, right?
A. Yes, but he got the one at the doctor's office. He never was able to use it.
Q. Where did you get this phony MRI?
A. Where did we get it?
Q. Yes.

A. Someone had wrote one up for us.
Q. I'm sorry?
A. Someone wrote one up for us.
Q. Who was that?
A. I don't recall their name.
Q. Where was it?
A. What do you mean?
Q. Where was this person who got this MRI?
A. I don't know where they are at.
Q. You don't know where they're at?
A. No.
Q. Who would know?
A. I don't know.
Q. How do you know that they actually did it?
A. Because they gave us the document.
Q. But you don't know where the document came from?
A. It came from a person.
Q. Who was the person?
A. I don't know their name. I don't recall their name.
Q. Sir, you bring this person, these patients, to the doctors that shouldn't be getting oxycodone and you provide the urine, whether you had the MRI and how many times --
A. That was only that one time we used it at that doctor's office anyway.
Q. On top of that, sir, you individually were leading these

medical people to believe that you were a caregiver for these people, right?
A. No, never.
Q. Never?
A. Never.
MR. KEHOE: May I have one moment, your Honor?
THE COURT: Yes.
Q. Do you recall having a conversation with Interfaith Hospital on October 11, 2015, about Benn Darin from a Dr. Bazuna?
A. I might have. I spoken to a doctor on behalf of Benn Darin.
Q. Do you recall what was said during this conversation?
A. No.
MR. KEHOE: If I can, Judge, give the witness something to refresh his recollection? DX-1382. May I approach, Judge?
THE COURT: Yes.
A. Okay.
Q. Do you recall having this conversation with a Dr. Bazuna at Interfaith Medical Center?
A. Yes.
Q. Did he ask you about the health of Benn Darin, who was currently in the hospital?
A. Yes.

Q. He was asking you questions about the medical history, right?
A. Yes.
MS. ESTES: Objection.
THE COURT: Ground?
MS. ESTES: Hearsay.
THE COURT: No, a question is never hearsay. A question is never offered for its truth. It's a question. Overruled.
Q. This is a conversation with a doctor concerning Mr. Benn Darin in --
A. Yes, because, as you can see --
Q. Excuse me. Let me finish my question.
A. Okay.
Q. This is a conversation with a doctor about the health of Benn Darin while Benn Darin was at Interfaith Hospital. You had that conversation?
A. Yes, I recall the conversation.
Q. The doctor called you, right?
A. Yes, because Benn Darin asked him to call.
Q. The doctor called you at Benn Darin's request?
A. Yes.
Q. He called you at that request because you were the person who was acting as the home health caregiver to Benn Darin, right?

A. No.
Q. You're talking about Benn Darin's medical history with a physician at a hospital, aren't you?
A. Right. He wanted to know what was his medication, so I told him he would have to wait until I go to the house. I was going to call where he stood at the time and have him read out all his prescriptions. Basically, that's what they are saying over here too.
Q. Let us turn to another instance. Do you recall a conversation concerning Jorge Tirado in August 23, 2015, when Jorge Tirado was at Brookdale Hospital?
A. I might have, yes.
Q. Do you recall?
A. I don't recall, but I could have, yes. I spoke to a few of his doctors before.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. I'm showing you for the record Defense Exhibit 114. I ask you to just read that, sir.
A. I'm reading it now. Okay.
Q. Jorge Tirado. Brookdale Hospital is calling you about Mr. Tirado, who is in the hospital?
A. Yes.
Q. There is concern about what's going to happen to Mr. Tirado on his release, right?

A. Yes.
Q. He asked whether or not you were a relative, right?
A. Yes.
Q. You tell him yes?
A. Yes.
Q. Are you a relative?
A. No, but we like family.
Q. You're not a relative?
A. No, but we considered each other to be family.
Q. Mr. Tirado, what is he in Brookdale Hospital for? What is your understanding?
A. At that time I'm not sure what he was in there for.
Q. He's in the hospital. You were going to go pick him up, right?
A. He went to the hospital a few times for a few things, so I don't know exactly what he went there for at that time.
Q. You were going to go pick him up, right?
A. Yes, because he needed somebody to pick him up.
Q. They were concerned about his home arrangements, weren't they?
MS. ESTES: Objection.
A. Not concerned more --
THE COURT: Wait. There is an objection. Sustained.
Q. Sir, through this period of time Jorge Tirado and Mr. Benn Darin are people that you were getting their medicine for

throughout all this, right?
A. Yes.
Q. You're getting medicine from them, and then you're also dealing with their hospitals when they call you to ask about their well-being, right?
A. I'm not dealing with the hospitals. I'm just answering questions.
Q. Hospitals would call you, right?
A. Because they would give them my number.
Q. Jorge Tirado gave your number to the hospital?
A. Yes.
Q. And Benn Darin give your number to the hospital?
A. Yes.
Q. Did you tell them to do that?
A. No, because I was considered the be the only family friend.
Q. Isn't it a fact, sir, that this was part of your role as a home health caregiver to all of these people, what you were telling people?
A. Never.
Q. Isn't it a fact, sir, that you told other people in the pharmacy, in the Afam Pharmacy, that you were in fact a home health caregiver?
A. No. But I overheard Danny and the other pharmacists know something to that effect.
Q. Did you correct them?

A. I didn't say anything.
Q. Didn't you tell those other people in the pharmacy --
A. They didn't directly ask me anything.
Q. Excuse me. Didn't you and Mr. Hespeth at other times tell these people in the pharmacy -- including Sharon Auyeung, the picture that you saw -- that you were in fact working as a home health caregiver in a nursing home?
A. No.
MS. ESTES: Objection.
MR. KEHOE: It is not for the truth of the matter asserted, Judge.
MS. ESTES: Form.
THE COURT: Sustained.
Q. Didn't you tell Sharon, the pharmacist in the picture you saw yesterday, and I could bring it back up on the screen --
MR. KEHOE: Could we do that, please, 616.
Q. Government Exhibit 616. This is the other pharmacist, Sharon, that you were talking about, right?
A. Yes, the one that stopped filling in the oxycodone for me because she was afraid to lose her license.
Q. That was not the question, sir. Thank you very much.
A. That's her.
Q. Thank you. That's the pharmacist that you were talking about, right?
A. Yes, that's her.

Q. Sir, isn't it a fact that you told this woman that you were working on a nursing --
A. I never told her I worked at a nursing home.
Q. We saw a conversation that you had on the 11th of October 2015 with Dr. Bazuna concerning Benn Darin. That same day do you recall Benn Darin called you about his medication?
A. He could have.
Q. Did you then turn around and call the pharmacy about Benn Darin? Do you recall calling the pharmacy about Benn Darin's medication?
A. I could have, yes, because he was getting stuff wrong at the time. I could have, yes, because Benn Darin was stressing to me the fact that he wasn't getting all his medications properly.
Q. Do you recall, sir, that happened on the same day that the hospital, Interfaith Hospital, called you about Benn Darin? You then called the pharmacy about Benn Darin's medication, didn't you?
A. I don't recall if it was the same day, but I do recall the incidence where I called Danny to have him fax all the medications that Benn Darin was getting that I brought to his pharmacy, to the hospital, so they had records of what he was getting.
Q. Let me see if this refreshes your recollection.
A. I do recall that. But I don't know.

Q. Defense Exhibit 135.

MR. KEHOE: May I approach, Judge.

THE COURT: Yes.

Q. Now let me show you Defense Exhibit 135 and ask if that refreshes your recollection that the phonecall to the pharmacy about Benn Darin's medication is on the same day that the phonecall from Interfaith Hospital comes to you concerning Benn Darin and his issues from the doctor at Interfaith.

A. I don't know. Where is the other document? Then I could tell you if it is the same thing.

Q. Sir, do you recall that phonecall?

A. What? This one here?

Q. No, no, sir. The Interfaith phonecall, do you recall that?

A. With Benn Darin?

Q. No, with the doctor.

A. With who? For Benn Darin?

Q. Concerning Benn Darin?

A. Right.

Q. We talked about this earlier.

A. Right.

Q. It was involving Dr. Bazuna at Interfaith Hospital. Do you recall that?

A. Okay.

Q. Do you recall that that phonecall was on the 11th of October?

A. If it was that date, okay.
Q. In fact, do you recall on that same day on behalf of Benn Darin making a phonecall to the pharmacy on behalf of Benn Darin concerning his medication?
A. That's this here?
Q. Take a look, sir, if it refreshes your recollection.
A. I need to read it first, what you are talking about.
Q. Please do. Take your time.
A. Okay.
Q. On the same day that the hospital is calling you about Benn Darin, you are then turning around and calling the pharmacy about Benn Darin's medications, aren't you?
A. Not about, but to send his medications information to the doctor.
Q. On the same day the hospital calls you about Benn Darin --
A. Yes, because I didn't know exactly what medications he was taking. So there it goes. If I was a health care whatever you wanted to call that, I would have known this, wouldn't I?
Q. That same day you then called the pharmacy --
A. Because I didn't know what medications he was, on and the doctors was very concerned because they knew he was a very sick individual. They didn't want to give him something they wasn't supposed to give him. So since I doesn't know what type of medications he was on, I called Danny because I brought all the of the prescriptions for Danny to fill, for him to fill

whatever I brought over there, to send to the doctor.
Q. You had other occasions with Benn Darin where you took care of his medical needs, isn't that right?
A. What do you mean take care of his medical needs?
MR. KEHOE: Let's go to Government Exhibit 403. If we could put that up and play it for the jury. The jurors can look at the aid to the jury. I believe it is 403-T.
(Audio played)
Q. By the way, this person that you have been working with for many years is not keeping the place open after 4:00 for you, is he?
A. No. He leaves at 4:00.
Q. The person that you are dealing with, Mr. Gohari, for all this time, he's not sticking around after 4:00 for you, is he?
A. No. That's why he's telling me to hurry up, be there by 4:00, so he can give me my oxycodone.
Q. Let's go back to Benn Darin now.
A. Okay.
Q. You are calling about syringes. You are calling about these items, the pens, for Mr. Benn Darin?
A. Yes, because on many occasions Benn Darin had stressed the fact to me that he was giving me this pen prescription. But I really never looked at all the prescriptions, I would just hand them to Danny. So I figured maybe he misunderstood that he was getting it. That's why I was calling Danny, to remind him to

make sure that he gets the pens.

Q. That was after a phonecall the prior day from Benn Darin to you, do you recall that?

A. Benn Darin calling me?

Q. Calling you. He called you about his syringe issue, didn't he?

A. Yes. He said that he's not getting them, that Danny's dispensing something else other than his pen insulins.

(Continued on next page)

BY MR. KEHOE:
Q. So there's an issue on the syringes for his diabetes. Before this call, Ben Darin calls you and asks you to take care of it with the pharmacy and then you go and call the pharmacy and you just had the conversation with Mr. Gohari saying Mr. Ben Darin needs the pen insulin, right?
MS. ESTES: Objection.
THE COURT: Sustained.
Q. Let's take care of the sequence of events. You heard this phone call?
A. Yeah.
Q. Prior to this phone call do you recall getting a call from Ben Darin about his diabetes medication?
MS. ESTES: Objection, asked and answered.
THE COURT: I'll allow it.
A. Yes.
Q. And in that do you recall him saying that he is not getting the proper medication?
A. Right, because what it was was Ben Darin was doing me a favor.
THE COURT: I'm sorry. Just basically just confine your answer to the question asked. The answer was yes. Okay. Go ahead.
Q. After you got that call, you then called the pharmacy in the conversation that we just had, just heard, concerning

getting this pen insulin, right?
A. Right.
Q. So you were in fact continuing to fulfill your role as a home healthcare giver, weren't you?
A. No.
THE WITNESS: Can I explain why?
THE COURT: Go ahead.
THE WITNESS: Ben Darin and I were, you know, we know each other for quite some time. So he was doing me a favor because I knew he was getting these type of prescriptions, so he was doing me a favor of giving me the prescriptions so I could fill them at Danny's so I could bring a bulk of high-end medications so there was an order to fill in my oxycodones. So when Ben Darin wasn't getting his medications, you know, right, he would let me know, yo, what's going on with your boy, what's going on with the pharmacy, because I was bringing his medicines. So he was just basically looking out for me to make sure he got his stuff right.
Q. Let's turn our attention to Government Exhibit 401 if we could, please. If we could ask the jurors to look at 401-T. This is a call involving George Tirado.
(Audio recording played)
Q. Now, this is a call the government played for you and let's focus on middle of the page where you say, I'm over here with George Tirado. I'm at his doctor's appointment to pick up his

psyches.

Now, at the time this conversation took place, you were in Pennsylvania, weren't you?

A. Yeah.

Q. Now, you are telling Mr. Gohari that you are in Brooklyn taking Mr. Tirado to his psychological evaluation, weren't you?

A. No, picking up his prescriptions so he knew I was still bringing in extra bulk. Make him happy, you know, because that was I would bring them. I was supposed to bring constantly bulks of prescriptions. You asked the question and I answered.

Q. I'm sorry, I didn't mean to cut you off.

A. No, that's what it was. Just make him happy that he knowing that I'm still bringing extra, you know, prescriptions.

Q. So to make him happy you're bringing him extra prescriptions, but you are lying to him as to where you are, right?

A. If you want to say that.

Q. You're in Pennsylvania, aren't you?

A. Yeah.

Q. And you're not with George Tirado getting his psychological evaluations, are you?

A. No, but George Tirado is picking up his prescriptions though.

Q. That's not the question I asked you. Do you understand my question?

A. Yeah, I'm in Pennsylvania.
Q. So you were lying to Mr. Gohari?
A. I guess so, yes.
Q. And you were lying to him and leading him to believe that you were in Brooklyn and you were with George Tirado at a doctor's office for his psychological evaluation?
A. No, to pick up his prescriptions.
Q. He was there at his psych appointment, wasn't he?
A. Yes, his psych appointment.
Q. So let me go back through this. You are leading Mr. Gohari to believe that you're in Brooklyn at a psychological evaluation for Tirado?
MS. ESTES: Objection, asked and answered.
THE COURT: Sustained.
Q. This is fundamentally, sir, you are misleading Mr. Gohari in this, aren't you? Yes or no.
A. I wasn't misleading him. I just told him that.
Q. Just told him that. Now let us go back to I think it is GX405. If we could, the jurors can take a look at GX405-T I guess is the aid to the jury.
Now, this is a phone call that was the government played and it's between you and Mr. Hespeth. Do you have that transcript before you?
A. No.
MR. KEHOE: May I approach, Judge?

THE COURT: Yes.

MR. KEHOE: Your Honor, for the record, I'm just pointing him to the correct transcript.

THE COURT: All right.

Q. Now if we could just go through a conversation, this is a conversation that's taking place on September 4, 2014, between you and Mr. Hespeth.

(Audio recording played)

Q. Now, in this phone call, sir, you tell your nephew, Mr. Hespeth, to tell them, Mr. Gohari and people in the pharmacy, that I'm still at the doctor's office with Ben Darin, right?

A. Yeah, tell Danny.

Q. That's my question. You told him to tell them that, right?

A. To tell Danny that, yeah.

Q. Let's be clear, you're in Pennsylvania at the time, right?

A. Yeah.

Q. You're not at Ben Darin's at a doctor's appointment with Ben Darin?

A. No.

Q. And you are asking your nephew to mislead Mr. Gohari and the people in the pharmacy as to where you are, right?

A. If that's how you want to put it.

Q. So even if prior to -- and there was a conversation prior with Mr. Hespeth prior to what the government played, wasn't

there?
A. Excuse me?
Q. Well, there was a portion of this conversation that took place that was taped prior to what the government played here, wasn't there?
A. I believe so.
Q. Now, do you recall saying in that conversation before he's talking to anybody at the pharmacy that make sure you tell them I'm at Ben Darin's doctor's appointment; do you recall that?
A. Yeah, so he would be happy that I was picking up extra prescriptions.
Q. That's not my question. Do you remember telling Hespeth at the beginning of this call to make sure you tell them I'm at Ben Darin --
A. That's the purpose of me telling him to say that. Danny got excited when I brought a bunch of prescriptions in.
MR. KEHOE: Your Honor, with all due respect, I just ask the witness to be responsive.
THE WITNESS: I'm answering.
MR. KEHOE: And let me finish my question.
THE COURT: Yes.
Q. Do you recall saying earlier in this conversation that you told Hespeth to tell Mr. Gohari that you were at Ben Darin's medical appointment, yes or no?
MS. ESTES: Objection, asked and answered.

THE COURT: I'll allow it.
A. Yes.
Q. So you're asking your nephew -- did your nephew, did you have conversation with your nephew about you being in Pennsylvania?
A. He knew I was there.
Q. So you're asking him to mislead Mr. Gohari as well?
A. If that's how you want to put it.
Q. That's how it is, isn't it?
A. No. We just would say that to him to get him happy that we're still collecting extra prescriptions for him.
Q. Now, let us go to what the counsel played this morning, which was a GX412, and if we could turn to -- we'll have the jurors turn to the aid to the jury. If we could play Government Exhibit 412.
(Audio recording played)
Q. Now, this is October 27, 2015, is it not?
A. Yes.
Q. And this is the last time that you, well, this day is the last time you talked to Gohari on the phone, isn't it?
A. I believe so.
Q. And on this day you are still telling him, in the middle of the page, I'm at the clinic with Ben Darin, didn't you?
A. Yes.
Q. And this is a person you say you've been dealing with in

this oxycodone deal for years?
A. Yes.
Q. But you're still lying to him as to where you are, right?
A. Yeah.
Q. You were in Pennsylvania?
A. Okay.
Q. And you weren't at any clinic with Ben Darin?
A. No.
Q. So at the very end of this entire transaction, you are still misleading Mr. Gohari, as we see from this conversation, right?
A. No. I would just let him know we was getting extra prescriptions.
Q. Now, let's go through exactly what your procedure was with these scripts. Now, you only -- when you brought these scripts in for oxycodone or anything else, these were scripts that a doctor wrote, they were legitimate scripts, weren't they?
A. Yeah.
Q. And as a matter of fact, at the outset, Mr. Gohari asked you whether or not the scripts were legitimate too?
MS. ESTES: Objection.
THE COURT: Overruled.
Q. Didn't he?
A. He asked me, well, the conversation me and him had --
THE COURT: If you can remember, answer that question

yes or no.
A. Yes.
Q. Now, you noted during your direct examination that the patients went with you to the pharmacy, right?
A. Into the pharmacy, no.
Q. Did they not go into the pharmacy on occasion?
A. Maybe once or twice.
Q. You told the government earlier --
A. There was a couple, but they wasn't required.
Q. But you brought them in?
A. It wasn't required.
Q. That wasn't my question. You brought them in, didn't you?
A. If he asked for, say, for instance, what was the milligram of the pump or the style or whatever that they used to getting, I would call them from the car and basically that was it.
Q. You brought them in the car because you -- in case the pharmacist had a question, if Mr. Gohari had a question?
A. No.
Q. Excuse me. You brought them in the car because if Mr. Gohari had a question or the other pharmacist had a question, you had to bring them in; isn't that right?
A. No. They came because they waited to get paid.
Q. Didn't you tell the government in an interview -- do you recall telling the government in an interview on July 29, 2016, that you brought the patients to the pharmacy in case the

pharmacist had a question; did you tell them that?
A. I don't recall that.
Q. Let me show you 35 -- this is, your Honor, 3504.
MR. KEHOE: May I approach, Judge?
If I may have a moment. May I approach, Judge?
THE COURT: Yes.
Q. Let me see if that refreshes your recollection as to whether or not you told the government on July 29, 2016, that you brought patients to the pharmacy in case the pharmacist had a question.
A. I'm trying to find where. Show me where it's at.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
A. It says sometimes. It says sometimes patients went in.
MS. ESTES: Objection.
THE COURT: Don't read from the document. Just look at it and see if it refreshes your recollection, your independent recollection.
Q. Of what you told the government.
A. Yeah.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. So it's a fact that you told the government that you brought the patients to the pharmacy and they were in the car because so the pharmacist might have a question, they were

there, right?
MS. ESTES: Objection compound.
THE COURT: It is compound.
Q. You had a conversation with the government on July 29, 2016 -- excuse me -- about taking patients to the pharmacy, didn't you?
A. Sometimes, yes.
Q. And when you brought the patients to the pharmacy, you told the government that the reason you brought them to the pharmacy was that they would be there if Mr. Gohari and the other pharmacists had a question, right?
A. Not --
Q. Excuse me?
A. Not exactly.
Q. Didn't you tell the government, do you recall telling the government that?
A. Do I recall telling them that I brought patients all the time?
Q. No, that you brought patients in the car and had them there in case the pharmacist had questions, did you tell the government that, yes or no?
MS. ESTES: Objection.
THE COURT: Let me see the document, please.
Sustained.
Q. Did you bring the patients in if Danny, if Danny Gohari or

the other individuals had a question?
A. They would if he asked me a question, yes.
Q. So you'd go out to the car and bring the patient in?
A. Not all the time, but it has happened, yes.
Q. Now, in addition to having the patients being brought to the pharmacy, you have their insurance identification card?
A. Yes. Danny told me to always bring insurance card --
Q. Excuse me.
A. -- and to bring, write down their address on the prescription.

MR. KEHOE: Your Honor, I'm trying to get this quickly. It's a very simple question as to whether or not you brought the insurance card in.

THE COURT: Put the question again.

Q. Did you bring the insurance card for these patients in?
A. Yes.
Q. You had patients that were in the car. You brought their insurance card in, right?
A. Yes, at times. Not all the time, but there was times they would be in the car.
Q. You got the Medicaid insurance card from the patients, right?
A. Yes.
Q. And after that, during this period of time, in all of these occasions, you were signing off on these prescriptions, right?

A. Yes.
Q. And these prescriptions were, as we said at the beginning, prescriptions issued by a doctor?
A. Yes.
Q. And during this period of time he had a paper signed by some of these patients that reflected that you had permission to do it, right?
A. I mean --
Q. That you had permission to pick up for them?
A. He told me to do that like after a year and a half of us conducting business. I found that to be kind of odd when he told me to do that.
Q. Did you do it?
A. I think I've done it for one patient, maybe two.
Q. Did he ask you to do it?
A. He said it would be in our best interest.
Q. Did you give him the signed paper about this permission?
A. I think I gave him one.
Q. So let's go through this.
A. One person.
Q. Stop me if I'm wrong at any point. You had valid legal scripts from a doctor?
MS. ESTES: Objection.
THE COURT: I'll allow it, but I wonder whether it's the best use of counsel's increasingly limited time to just

repeat what you've gone through before.

MR. KEHOE: Just summarizing and moving on, Judge.

Q. So you had what you thought were legitimate scripts from a doctor, you brought patients that were there in case the pharmacist had a question, you had the patient's Medicare insurance card, he had signed documents giving permission, and the fifth thing is --

THE COURT: I didn't know that's what you were planning to do. Sustained.

Q. Did you go through all of those steps that I just talked about, did you have all those precautions on these scripts?

THE COURT: Same question, same ruling, sustained.

Q. Well, with regard to all of this, sir, did you ever turn to Mr. Gohari and say, look, you know, forget about me signing off on this. Forget about the insurance card. Forget about everything. Forget about the formalities. We're in this conspiracy together. Just give me the stuff. Did you ever say that to him?

MS. ESTES: Objection.

THE COURT: Sustained.

Q. Throughout all this, when you were going in and out, did you listen to these phone calls?

By the way, you listened to these phone calls before with the government, didn't you?

A. Yes.

Q. And you listened to quite a few phone calls in addition to what we have here that we played, right?
A. Yes.
Q. Do you know how many calls you listened to?
A. A few calls.
Q. In any of those phone calls that you listened to did you ever hear Mr. Gohari telling you don't bring a patient into the pharmacy?
MS. ESTES: Objection.
THE COURT: Overruled.
A. Did he ever tell me don't bring a patient into the pharmacy?
Q. Yeah. Did you ever hear any of these taped conversations, these 2,000 calls, did you ever hear anytime Mr. Gohari tell you not to bring a patient into the pharmacy?
A. In the phone calls, I don't recall that, but that wasn't the agreement me and him had though.
Q. Now, with regard to picking up the scripts, I mean, George Tirado picked up his scripts from time to time, right?
A. He did it on a couple occasions.
Q. And Sheri Bowen picked up her scripts from time to time, right?
A. I would say like two occasions.
Q. So other people went in there and Mr. Gohari and the pharmacy never told them to get out, we're not filling your

scripts, did they?

MS. ESTES: Objection.

A. Never gave them oxycodone --

THE COURT: Whoa. There is an objection.

THE WITNESS: Sorry.

THE COURT: Sustained.

Q. Sir, were you ever in there when the pharmacy, Mr. Gohari or anybody else, told Sheri Bowen or Willie Johnson or George Tirado to leave, I'm not filling your scripts, were you ever there when that happened?

A. No, but they never gave them the oxycodone either. That only came to me.

Q. Now, you in fact, sir, wanted to prevent your patients from having direct contact with the pharmacy, didn't you?

A. No. That was the agreement Danny and I had.

Q. Well, if you in fact prevented the patients from going into the pharmacy, you would keep control of the actual oxycodone that was being sold, wouldn't you?

A. That was the agreement Danny and I had. I brought in all the prescriptions, all the oxycodone prescriptions, and he dispensed everything to me.

Q. Now, in all the phone calls that we listened to, there is -- you never heard anything about any agreement with Mr. Gohari about, oh, you're the only one that is supposed to bring in these scripts or the oxycodone scripts, is there?

MS. ESTES: Objection. Form.

THE COURT: Sustained as to form.

Q. You listened to these calls, you listened to these phone calls, right?

A. Right.

Q. Did you hear any phone call where Mr. Gohari -- better still, you listened to these phone calls and some of the phone calls are between you and Mr. Gohari, right?

A. Right.

Q. Did you hear any phone call where Mr. Gohari told you not to allow your patients to come into the pharmacy?

MS. ESTES: Objection, asked and answered.

MR. KEHOE: You just objected to that question.

THE COURT: I'll allow it. You may answer.

A. No.

Q. No, there are none, are there?

A. No.

Q. Now, you noted during the course of your conversation that your agreement with Mr. Gohari was that you bring in high-end stuff and then he fills the oxycodone, right?

A. Right.

Q. Well, he never said that to you, did he?

A. Yes.

Q. He said that specifically?

A. Yes. He was the only one that was dispensing it to me.

Q. No. Did you have an explicit agreement that if you brought all of these other high-end things, I would fill your oxycodone, did you?
A. He would continue to fill oxycodone for me, yes.
Q. Did you have that agreement?
A. Yes.
Q. And you had this verbal agreement with Mr. Gohari where he said to you --
A. Him.
Q. This gentleman right here. That's him -- you bring in oxycodone and high-end stuff and I'll make sure your oxycodone is filled?
A. Yeah. He told me every time if I brought bulks of prescription, every time I came in there with a oxycodone prescription, he will fill it for me, yes.
Q. When you were interviewed by the government in November 6, 2016, do you recall that you told the government that you understood that was the arrangement?

MS. ESTES: Objection.

MR. KEHOE: I'm sorry, April 6, 2016. My apologies. I had the wrong date.

THE COURT: Do you want to rephrase?

MR. KEHOE: I certainly do. My apologies to the jury and to the Court and to the witness as well.

Q. Mr. Cabrera, do you recall telling the government in

April 6, 2016, that you understood that that was the arrangement?
A. That was our arrangement.
Q. Did you use the word understood?
A. I might have.
Q. Do you recall saying that?
A. I don't recall exact word for word, no. But I understood the agreement that I and Danny had.
MR. KEHOE: One moment, Judge, please, with the Court's permission. It's on page 2.
I'm looking at 3504-2. May I approach?
THE COURT: Yes.
Q. I ask you to take a look at this top paragraph and just read it for us, please.
A. Okay.
Q. Now, do you recall telling the FBI that Danny asked Cabrera to bring all his HIV prescriptions to his pharmacy and he would fill them; do you recall him saying that?
A. Yes.
Q. Do you recall telling the FBI that?
A. I recall, I recall Danny telling me to bring all of my prescriptions to him.
Q. And this interview is in April of 2016 when you were initially starting your cooperation with the government, wasn't it?

A. Yes.
Q. And it then says that -- do you recall saying that Cabrera understood that to mean bring all -- bring me all of your patients' prescriptions and I will fill your oxycodone, did you tell the government that, that you understood that to mean that bring me all of your patients' prescriptions?
A. I don't recall making that statement like that. I know the agreement I had with Danny was to bring all the prescriptions to him.
Q. Do you recall telling the government on April 6, 2016, that you understood Mr. Gohari's statement that bring me your HIV prescriptions to his pharmacy and he would fill them, you understood that to mean bring me all of your patient prescriptions, I will fill your oxycodone?
A. Yeah, he said to bring them all in.
Q. No, the question is your understanding. Did you tell the government that you understood?
A. I don't recall saying understood.
MR. KEHOE: May I approach, Judge?
THE COURT: Yes.
Q. Now, you also talked to us about the fact that the reason why you had this arrangement was so that you would bring in high-end scripts, was that right?
A. Yes, and bulk scripts as well.
Q. I'm sorry?

A. And, you know, quantity, a lot of scripts.
Q. Let me take a look at Duane Harrison was one of those gents that got quite a few scripts, wasn't he?
A. I wouldn't say quite a few, but he got some scripts, yes.
Q. He was the one you talked about yesterday saying that those are the high-end scripts that Danny likes, right?
A. Yeah, like the Saphris, Abilify, stuff like that.
Q. Let's look at what Mr. Harrison is getting. Can we look at Government Exhibit 209. If we can put that on the screen, please.
Now, this is the patient profile for Duane Harrison. It's in evidence. And let's look at this first line on page 1. Can we blow up the first bit for 8/22/12. 8/22/12, that's oxycodone, $57, right?
A. Right.
MR. KEHOE: Let's go down to the -- I think is there one up there? Let's go to the next one.
Q. Now, what is this one, do you know what this is?
A. No.
Q. Clonidine, is this one of the medications that Mr. Harrison was getting?
A. Could be, yes.
Q. Did you bring it in on the same time that you were bringing in oxycodone in?
A. Yes.

Q. And this was a payment of 313, $3.13?
A. That's what it says there, yes.
Q. And let's go, look at this, if you can blow up this page. And let's see what the highest amount is on this page. I believe the second to last one. Yes. $57.13.
So this is oxycodone again for $57?
A. Yes.
Q. So this other stuff on this first page, other than the oxycodone, ranges from as little as $3.13, doesn't it?
A. That's what it says.
Q. Now, this is the high-end stuff that you were coming into Mr. Gohari's with with Mr. Harrison?
A. There was other people's I was bringing in as well.
Q. That's not my question. My question was you talked about Duane Harrison, that the reason you were bringing Duane Harrison's stuff in is because he had all this high-end stuff. And other than the oxycodone, this stuff is worth, well, let's look at this. The one line we looked it on the 22nd is $3.13, right?
A. There should be other stuff on there too.
Q. Let's look on the next page. We'll look on the next page too. On page 2, the largest one is for $68.29. Let's look at the first one. On the page, on page 2, if we go up to the top, that's again for clonidine, $3.13.
By the way, when you say high-end stuff, I think that

you responded to some questions by counsel yesterday about some high-end materials. And do you know how much Mr. Gohari has to pay for these medications, do you have any idea?
A. No.
Q. Do you have any idea about how much he's compensated for by Medicaid?
A. No.
Q. So if something costs $870, you don't know if Mr. Gohari had to pay $869 or that or $5, do you?
A. No.
Q. Let's go down to the next line. Now, this is an oxycodone for $68 that we just talked about.
And let's go down to the next one. This is, pardon my pronunciation here, trazodone, T-R-A-Z-O-D-O-N-O. Pardon my incorrect pronunciation of that, Judge. I stand corrected if there is a proper pronunciation with which I'm not familiar.
In any event, suffice it to say this is another item that Duane Harrison, that you brought in for Duane Harrison?
A. Yeah, it was another item.
Q. And it's $5.32. Do you know what this is?
A. No.
Q. Now if I may one second. Excuse me, your Honor. Now if we go to page 5. Actually, it's page 6. My apologies.
The bottom of the page on page 6, you mentioned this diclofenac that was prescribed and counsel highlighted this as

an item that was $867.65. Do you see that?
A. Yes, I see it.
Q. How much did Mr. Gohari have to pay for that?
A. I don't know.
Q. You don't know how much money he made on that, if he made any money at all?
A. I never asked him no questions. I just brought in the prescriptions like we agreed on.
Q. Let's go to the -- by the way, it is a fact that that date, and this is January 22, 2014, that is the first date -- and how long were you bringing Duane Harrison into the Afam Pharmacy?
A. A few years.
Q. Let's go, if we can go back to page 1. Page 1 reflects that the first time that Mr. Harrison receives a prescription, it's August 22, 2012. Does that sound right?
A. Sounds about right.
Q. And if we flip back to page 6, to the diclofenac, and that's January -- the bottom of page 6. Or is it five. What we just looked at, six is the diclofenac.
Now, between 2012 and this date, isn't it a fact that none of the prescriptions filled by Mr. Gohari from the first time you brought him there in August until this date in January of 2014, none of them, including the oxycodone, exceeded $70, did they?
A. Probably for that patient.

Q. That's the one you mentioned him yesterday as one of the ones that you were bringing all this high-end stuff in and then we have records that go from January of 2012 until this in January of 2014 and nothing exceeds, excuse me, August 2012 to January 2014, and nothing exceeds $70?

MS. ESTES: Objection.

THE COURT: Sustained. It wasn't even a question. It was a long statement.

MR. KEHOE: My apologies.

THE WITNESS: How about --

THE COURT: No. There was no question pending.

There is a question pending which is when are we going to break for lunch?

MR. KEHOE: Judge, to put a damper on questioning, that's the question of the day.

THE COURT: Yes. So we will break for lunch in about five minutes, counsel.

MR. KEHOE: Yes, your Honor.

BY MR. KEHOE:

Q. So you bring -- you talked about Duane Harrison yesterday as a guy who you were bringing in high-end stuff for, right?

A. I could have made that statement, yes. I was just thinking of names randomly. Like you should show Michelle Middleton's stuff. How about Loretta McKethan. There's some other names I could bring up that they weren't receiving oxycodone, but I was

bringing him the prescriptions to fill in oxycodones for me.
Q. Mr. Cabrera, you brought up Mr. Harrison and my question for you --
A. I was mentioning names off the top of my head the best that I could.
Q. We note that you brought them in in August of 2012. This particular prescription for diclofenac is January of 2015. You can review these records.
MS. ESTES: Objection.
Q. What are all of the high end?
THE COURT: Start again. Just put a question.
Q. Between August 2012 and January 2014, what are all these high-end scripts that you're bringing in to Afam Pharmacy for Duane Harrison, what are they?
A. That's why I would substitute with other people's prescriptions as well. Do you have Loretta McKethan's there?
Q. Let's look. I'll pick one. How about George Tirado. We talked a lot about George Tirado.
A. Okay.
Q. He was another one you said you brought in quite a few high-end stuff for?
A. I believe to be, yes.
Q. Let's look at Government Exhibit 218. Now, if we could blow up the first line here, this is the beginning, the first one is August 14, 2012. That's for, once again, Judge, my

apologies for the mispronunciation, gabapentin, $32. Was that one of the high-end ones?

A. No.

Q. Let's go two more down, one more down. Prednisone, $1.37. Let's go another one.

MS. ESTES: Objection. No question.

MR. KEHOE: I'm going to ask a question when I go through these quickly, Judge.

THE COURT: All right.

Q. This is the 14th again and it is ProAir and that's $44.56. Now, if you look at this page, are these the high-end items you're talking about --

A. The ones you're showing me aren't, no.

Q. Well, let's go, let me see. Let's go one further down. We have prednisone, which is 139.

Let's look at Mr. Tirado for June of 2013 and that would be page 7. And we have at the top of the page, the second one in is oxycodone for $53.23; do you see that?

A. Yes.

Q. Now, if we go down that page, we have one more for urea, which is urea gel, $40. Another, furix, for a dollar. Another -- this is all on the 7th -- for simvastatin for $3.86. We have multivitamin for $1.56. We have metformin for $2.09. Divalproex for $25.57. And those are -- I think we have a couple more on the next page. If we can go to page 8 -- this is all on the 7th -- amlodipine, $3.13. And Ibuprofen for $5.34.

Now, are those the high value scripts that you brought in to Mr. Gohari on July 7?

A. From what I see those aren't.

Q. He was another one that you talked to this jury about being someone that you brought in on high-end stuff in order to make this big deal with Mr. Gohari?

A. I spoke about Michelle Middleton and Loretta McKethan. Can you show me theirs?

Q. These are the names you gave us yesterday, didn't you? You gave us Duane Harrison, you gave us George Tirado?

A. Ben Darin.

Q. Did you give us these two names?

A. Yeah, I gave you those names.

Q. And the actual records do not support your statement that these high-end items were being brought in to Mr. Gohari, do they?

MS. ESTES: Objection.

THE COURT: Sustained.

MR. KEHOE: Your Honor, I'm going to move into another topic.

THE COURT: All right. Very good.

So, ladies and gentlemen, we will take our lunch break at this time and please be back a minute or two before

2 o'clock and we will reconvene at that time and we're going to go without a break then until 3:30.

(Jury not present)

THE COURT: Mr. Cabrera, you can step down.

THE WITNESS: Thank you, your Honor.

(Witness not present)

THE COURT: All right. Anything counsel needs to raise with the Court?

MR. KEHOE: No, your Honor.

MS. ESTES: Your Honor, we just wanted to clear up, we were going to get the cooperating witness food but not talk to him.

THE COURT: What's that?

MS. ESTES: We would like to get the cooperating witness food but not talk to him, of course.

THE COURT: All right. See you at 2 o'clock.

(Luncheon recess)

(Continued on next page)

AFTERNOON SESSION

2:10:00 p.m.

(Jury not present)

MS. ESTES: Your Honor, there is one subject we would like to raise with you outside the presence of the jury.

THE COURT: Yes.

MS. ESTES: Your Honor, circling back to the arrest of Dr. Ahmad issue, we believe that defense counsel has opened the door for the arrest given all of the inquiry into the doctors and whether they were legitimate. That is obviously going to be a key part of their defense and it is very important that the defendant knew that Dr. Ahmad was arrested. This is one of the doctors who wrote a large amount of prescriptions to the pharmacy and bringing prescriptions as part of the scheme.

THE COURT: Come to the side bar.

(At the side bar)

THE COURT: Start this again.

MS. ESTES: We believe defense counsel has opened the door to the Dr. Ahmad arrest because he has made lots of inquiries into doctors, whether they were legitimate, what Mr. Cabrera was doing to fool the doctors. There has been testimony about a conversation where the defendant told Cabrera to go back to Dr. Ahmad after he was arrested.

We think it is highly relevant to what the defendant knew, whether he knew Cabrera was going to dirty doctors, that during that conversation Cabrera said something that suggested he was arrested, and then the defendant said they should go back to that clinic anyway.

MR. KEHOE: Your Honor, it was brought out on direct, and the doctor issue that we are talking about is oxycodone. Ahmad, Naveed Ahmad, wasn't writing that. That was HIV issues. Going back the issues that were brought out on direct, I did not touch that on cross-examination. I did not open that door. I didn't go near it specifically for that reason.

MS. ESTES: Dr. Ahmad was writing oxycodone prescriptions.

MR. KEHOE: I didn't go near the Dr. Ahmad issue.

THE COURT: I don't think the door has been opened yet. I'll continue to monitor the situation. How much longer do you have on your cross?

MR. KEHOE: Judge, I understand that I don't have much.

THE COURT: Good.

(Continued on next page)

(Jury present)

GILBERTO CABRERA, resumed.

MR. KEHOE: Ms. Bostillo, if you could put Exhibit 616 on the screen please. Apologies to the jury if I was calling Ms. Bostillo Ms. Castillo. I stand corrected and my apologies.

CROSS-EXAMINATION (Continued)

BY MR. KEHOE:

Q. Mr. Cabrera, this is the young lady I believe you were talking about during direct examination who was the other pharmacist at the Afam Pharmacy. Correct, sir?

A. Yes.

Q. You told us in direct examination that -- her name is Sharon Auyeung -- after Ms. Auyeung, this young lady, left, the only person filling your oxy prescriptions after that was Mr. Gohari. Do you remember that testimony?

A. For the most part.

MR. KEHOE: If we could turn our attention to Government Exhibit the 19. And if we could blow up the top, please, the top name there. Thank you.

Q. Mr. Cabrera, this is in fact your patient profile from the pharmacy. Let us turn our attention to page 20. Page 20, sir, begins in February of 2015. Based on your experience going in and out of the pharmacy, you know that Ms. Auyeung was gone from the pharmacy at this point, don't you?

A. I guess so.

Q. Let's look at the first prescription for you. That's 2/11/2015. This is a prescription, and over on the right-hand portion it has the initials of the prescriber?

MS. ESTES: Objection. Agitating the witness, not asking a question.

THE COURT: Sustained.

Q. Are you familiar with these initials, sir?

A. No.

Q. Do you know what those initials are, Sharon Auyeung?

A. No.

Q. Let's go to the next one, 3/11/2015.

A. They don't show you this when you sign the tablet. It's just the tablet where you put your signature on and that's it.

Q. Your testimony to this jury was that after Sharon Auyeung left the pharmacy, the only person that was dispensing oxycodone to you was Danny Gohari. Did you not say that?

MS. ESTES: Objection.

THE COURT: He just two minutes ago said "mostly" in answer to that very question.

Q. On direct examination you said specifically --

THE COURT: You put to him a minute ago the question you are now putting, and he responded as he did, as the record will reflect. You need to move on.

MR. KEHOE: Yes, your Honor.

Q. You do know that Danny Gohari's initials are DG, Danny

Gohari? That's how you knew him?

A. I just knew him as Danny. I didn't know his last name until we caught this case.

Q. Let's go to the next date, which is 3/13/2015. This is oxycodone for February 13, 2015. The pharmacist had the initials of DC. Did Danny Gohari?

MS. ESTES: Objection. Agitating the witness.

MR. KEHOE: The document is in evidence, your Honor.

THE COURT: The objection is, first, that he never saw these documents. At least you haven't established that he did. Second, he didn't know of his own knowledge what Mr. Gohari's last name was, let alone his initials. This is just a way of you repeating something that you want to draw out of the records. It may be appropriate for you to argue on summation but it is not appropriate for you to question this witness about. Sustained.

MR. KEHOE: Yes, your Honor. I'll just go through these and ask if Danny Gohari filled them with the particular dates that he got the oxycodone, your Honor, most respectfully.

THE COURT: Let me hear the next question.

Q. Let's go to this particular prescription, February 13, 2015, oxycodone.

MS. ESTES: Objection.

MR. KEHOE: I'm just reading the document.

MS. ESTES: It doesn't say February.

MR. KEHOE: I stand corrected. You're absolutely right.
Q. March. March 13, 2015. Did Danny Gohari fill this prescription, do you know?
A. I'm not sure.
Q. Let's go to the next one down, April 7, 2015. Did Danny Gohari fill this one?
A. Not sure.
Q. Let's go two more down.
THE COURT: I do not see the appropriateness of this line of questioning. Sustained.
MR. KEHOE: We'll move on.
Q. One of the issues that you brought up on direct examination was the issue of Mr. Gohari asking for the patients to bring all their scripts to one pharmacy, his pharmacy, right?
A. Yes.
Q. You have been to a lot of pharmacies, haven't you?
A. I've been to a few.
Q. In your dealing with these pharmacies, are you familiar with the concept of polypharmacies?
MS. ESTES: Objection.
A. I don't know what that means.
THE COURT: I'm sorry. What?
MR. KEHOE: Polypharmacy.
THE COURT: I heard the word "objection," I thought,

and then counsel sat down. I think she reconsidered the objection. So the question stands. You may answer.

A. I don't know what that means.

Q. Did you learn during your experience with these pharmacies that pharmacists want all prescriptions to go to one pharmacy? Did you learn that?

MS. ESTES: Objection. Hearsay.

MR. KEHOE: Whether or not he learned. Not for the truth of the matter asserted, whether or not he learned that.

THE COURT: If it is not for the truth of the matter asserted, what is the relevance?

MR. KEHOE: If he knows.

THE COURT: If he knows, what is the relevance of that?

MR. KEHOE: I will argue that in final argument, Judge.

THE COURT: I will allow it for now. We'll see whether it needs to be stricken or not.

Did you learn that? Do you want him to repeat your question?

MR. KEHOE: Can we read it back, Judge? It might be easier.

(Question read)

A. One patient's prescription, yes.

Q. You did learn that?

A. Yes.

MR. KEHOE: Talking about some of the evidence we have seen here on dispensing, if we can play --

THE COURT: Now I need to have a side bar.

(Continued on next page)

(At the side bar)

THE COURT: You tell me. I'm happy to have you keep it for summation if it is relevant. I don't understand the relevance of his learning that fact.

MR. KEHOE: Because it undercuts his whole theory that the reason why he is bringing this to Gohari's pharmacy is because he wants this high-end stuff. The reason is because it's drug interaction and polypharmacy, they don't want stuff going to multiple pharmacies. I'll gladly go through this further.

THE COURT: Excuse me. How does the fact that he learned at this point, some uncertain time, that the pharmacists want it all to go through one pharmacy show anything about his conduct?

MR. KEHOE: Because it undercuts significantly his testimony that the reason why he brought all of these items to Gohari or Gohari asked for these items was because there was some quid pro quo about filling all of these other items so he could ensure that his oxycodone items were filled. That's the quid pro quo. That's what he is trying to say. Judge, we are trying to undercut that.

THE COURT: You are trying to undercut it by asserting the truth that that is the pharmacist's policy. The original objection was on hearsay grounds that that could not be asserted through hearsay. You may be able to assert it through some other witness or whatever, but through this witness it was pure hearsay. You then said, oh, no, it's relevant that he learned that, which is what you just asserted. I don't see how that relates in any way, shape, or form to the argument you are now making.

MR. KEHOE: Because it completely undercuts what the basis is for him bringing these items to the pharmacy. The sole reason he said this stuff is brought to the pharmacy was because Gohari requested it, when in truth and in fact he knows that pharmacists want all this stuff to go through a specific pharmacy for one reason: safety. But he never mentioned that on direct. The government never asked him that.

We certainly can bring out the fact that what he is doing is giving us one side of a story when there are two sides to it. This is a significant side, but the government doesn't want to bring that out.

THE COURT: Someone remind me, was there in evidence through prior witnesses, anything about this practice of pharmacists?

MR. BACHNER: Sharon Auyeung.

THE COURT: What did she say?

MR. BACHNER: She said that there is a term called "polypharmacy" in which pharmacists want scripts to be filled at a single pharmacy so they can avoid drug interactions and things of that nature, so they know where people are filling their various scripts.

THE COURT: I'm going to let it go for now and leave the record as it is. We will take up prior to summation this whole argument, which at least on the present state of the record seems to me to be quite tenuous. All counsel's saying it is highly significant doesn't mean that it is. But we'll see.

MR. KEHOE: Judge, I'm down here and your Honor is up there, and you make the final argument. I understand that, Judge. I'm just giving your Honor the theory of where we are coming from and the basis upon which I'm asking the question.

THE COURT: I'm glad we had this side bar because I've never seen yet from you quite such a dramatic presentation.

MR. KEHOE: I can do it all time, Judge, if you want me to.

THE COURT: I have no doubt. We'll leave things where they are.

(Continued on next page)

(In open court)

MR. KEHOE: Ms. Bostillo, if we can go to Government Exhibit GX-703. I believe this is pole camera footage that is in evidence that is from September 9, 2014, at 12:11 p.m. Excuse me. September 9, 2015.

(Video shown)

MR. KEHOE: Ms. Bostillo, if you can move it to 12:11, if possible. I think it is 11 minutes away.

While I'm sure this is riveting, Judge, I'm trying to move it up a bit.

Ms. Bostillo, we're looking at 12:11.

(Video shown)

Q. Mr. Cabrera, that's you exiting the Afam Pharmacy, right?

A. Yes.

Q. You have a bag?

A. Yes.

Q. Full of prescriptions, right?

A. Yes.

Q. These are prescriptions for your patients, right?

A. Not my patients but people that work with me.

Q. You actually in fact dispensed these prescriptions to these people, didn't you?

A. As a favor I brought them back their prescriptions.

Q. Now let's go to, if we could, on that same item 9/4/2015 at 1:58, the same pole camera, Exhibit 703. As we get this lined

up, that is not just oxycodone in that bag, is it?
A. No.
(Video shown)
Q. That's your nephew Mr. Hespeth, right?
A. Yes.
Q. He is again walking out with prescriptions?
A. Yes.
Q. That's all the prescriptions, right?
A. Yes.
Q. So between you and Mr. Hespeth, you were dispensing the prescriptions to Mr. Benn Darin, right?
MS. ESTES: Objection: "dispense."
THE COURT: I'll allow it.
Q. Right.
A. We was doing the favor of bringing back some of the medications.
Q. You brought Sheri Bowen her medication, right?
A. Yes, at times.
Q. You brought Willie Johnson his medication?
A. Yes.
Q. Duane Harrison?
A. Yes.
Q. Wilfredo Stretz?
A. Yes.
Q. When Mr. Gohari said to Sharon Auyeung that you were

bringing medication to these other people, that was true, wasn't it?
A. We were not health aides. Do we look like health aides to you? We don't have no uniforms of health aides on.
Q. Did you understand my --
A. But that's what you told me before.
Q. Do you understand my question?
A. Yes.
Q. So it's true that what Mr. Gohari said to Ms. Auyeung about you guys dispensing these prescriptions, when he said that, it was true?
A. That was not true. We weren't health aides.
Q. Let's go through this very briefly. By the way, in doing this oxycodone, I think you told us that you bought this house in Saw Creek Estates in Pennsylvania, right?
A. With partially the money, not all oxycodone money.
Q. Let's put Defense Exhibit 142 on the screen so we know what we're talking about.
MS. ESTES: Objection, your Honor. Is it in evidence?
MR. KEHOE: It's in evidence.
MS. ESTES: Withdrawn, your Honor.
Q. That's your house in Saw Creek Estates, right?
A. Yes.
Q. That's the house that you by your own admission bought partially with drug money?

A. Yes.
Q. Those are your automobiles there?
A. Yes and no.
Q. Yes and no?
A. Yes.
Q. Which ones are yours?
A. Actually, the black one up front.
Q. That's a BMW?
A. No, that's a Kia.
Q. That's a Kia?
A. Yes. That one was sent back to the company. That was on a lease. The 2010 Kia Sedona are you talking about? Yes. And the 2002 Cadillac Escalade.
Q. Did you have a BMW too?
A. Yes, 1998 BMW.
Q. Did you buy these vehicles or rent these vehicles with drug money?
A. Yes, I guess some. I bought the BMW a long time ago.
Q. The cars that you bought with drug money, did the government take those cars from you?
A. Excuse me?
Q. The cars that you bought with drug money, did they take those cars from you?
A. They might still be taking them from me.
Q. Have they taken them from you yet?

A. No.
Q. The house that you bought partially with drug money by your own admission, Defense Exhibit 142, has the government taken that house from you?
A. No, but they might be.
Q. They haven't?
A. Not as of yet, no.
Q. You continue to live there?
A. Yes.
Q. We talked a little bit before about the amount of money that you were making, for instance, on drugs. You were making, what, over a hundred thousand a year just on oxycodone, in cash?
A. No. I don't know the exact amount.
Q. Is that an estimate, about a hundred thousand?
A. No.
Q. What was it?
A. I'm not quite sure.
Q. You were also doing crack deals, right?
A. Yes.
Q. For instance, on a 125-milligram crack deal you could probably make 10, 15 grand profit?
A. No.
Q. How much did you make?
A. Depends.

Q. 2012, how much were you making selling drugs?
A. I'm not sure.
Q. 2013, how much did you make selling drugs?
A. I'm not sure.
Q. 2014?
A. I'm not sure.
Q. 2015?
A. I'm not sure.
Q. All the money you made there in drug dealing was in cash, wasn't it?
A. Yes.
Q. You didn't give any of it to Mr. Gohari, did you?
A. No.
Q. Your plea agreement, do you have that in front of you? It's Exhibit 110, I believe. Excuse me, 1101.
MR. KEHOE: That is right, counsel, 1101?
THE COURT: Yes, it's 1101.
MR. KEHOE: Thank you, Judge.
Q. Look at page 3 of that document. You pleaded guilty to conspiracy to traffic oxycodone, conspiracy to traffic cocaine and heroin, and Medicare fraud, right?
A. Yes.
Q. But you were trafficking other things as well?
A. Was I trafficking other things?
Q. You were selling coke base, you were selling marijuana, you

were selling other drugs, weren't you?
A. And heroin.
Q. And heroin. Now, if you go down this page, for any number of items that are listed here, the government said you weren't going to be prosecuted for them, right?
A. Yes.
Q. One of those included your participation in a heroin and marijuana distribution network into Rikers Island?
A. Yes.
Q. You were using women to sneak drugs into Rikers Island, weren't you?
A. Yes.
Q. Were you paying those women in crack?
A. No.
Q. What were you paying them in?
A. Cash.
Q. Just cash?
A. Yes.
Q. Both marijuana and the heroin, you didn't pay them anything in drugs, just cash?
A. Yes.
Q. How long did you do this?
A. I want to say a couple of years, maybe.
Q. How many times did you do it?
A. A few times.

Q. You snuck it past the guards?
A. Excuse me?
Q. You had these women sneak these drugs past the guards?
A. Yes.
Q. You came up with a plan to do that?
A. Excuse me?
Q. You came up with a plan --
A. No, I didn't come up with a plan. I was just helping out people.
Q. You were helping out people to do it?
A. They told me if I would do them the favor of bringing drugs to a person, I would bring the drugs to the person and they would do what they had to do.
Q. So you were the source of supply they were smuggling in?
A. Yes.
Q. How long did you do that?
A. About a year or so.
Q. Have you done it lately?
A. No.
Q. You also did some robberies here.
A. But I admitted to all this you're talking about.
Q. I understand.
A. They didn't catch me for this. I admitted to all these dealings.
Q. Sir, you robbed people, did you not?

A. When I was younger, yes.
Q. And you did it at gunpoint?
A. Yes.
Q. How many times did you do it at gunpoint?
A. A couple of times. I robbed drug dealers.
Q. In fact, you were shot a couple of times, right?
A. Yes.
Q. I think when you first sat down with the government in March of 2006, you told them you didn't know the reason why you were shot, didn't you? Isn't that what you told them?
A. Not that I didn't know, but I didn't know why they approached us to rob us.
Q. You called it a random act, right?
A. I considered it to be a random act.
Q. It in fact was a robbery, wasn't it?
A. They tried to rob us.
Q. It was a drug robbery, wasn't it?
A. No. We was coming out of a restaurant.
Q. Coming out of a restaurant, and you were robbed by people who thought you had drugs, right?
A. No.
Q. No?
A. We didn't even talk to them.
Q. Those robberies that you committed were at gunpoint. Have you used firearms since then?

A. No.
Q. You know Alberto Nazario, don't you?
A. Yes.
Q. Did you threaten him with an AK-47?
A. No.
Q. Did you brandish an AK-47 in front of Alberto Nazario at any point while this was going on?
A. No, I never.
Q. Never?
A. I never pulled out a gun on Alberto Nazario.
Q. During this period of time were you not in possession of firearms?
A. No. I know of people that was in possession, but I wasn't in no possession.
Q. Who was in possession of firearms?
A. People I knew.
Q. People involved in this transaction?
A. No.
Q. If you wanted a firearm, you could get it?
A. I'm quite sure I could get it if I wanted one.
Q. Let's go back AK-47, the AK-47 that I asked you about with regard to Alberto Nazario. Did you ever --
A. I never brought an AK-47 to Alberto Nazario.
Q. You never brought an AK-47?
A. No.

MS. ESTES: Objection. Asked and answered.

THE COURT: Sustained.

Q. The cash that you got, how much taxes did you pay on that?

A. Not much.

Q. Did you pay any?

A. I paid taxes when I was working.

Q. When was that?

A. I don't recall the year.

Q. When was the last time you were working?

A. A few years ago.

Q. Give us an estimate.

A. I don't recall the exact year.

Q. Were you working in 2015?

A. No.

Q. Did you pay any taxes in 2015?

A. No.

Q. Were you working in 2014?

A. Off the books I think I was.

Q. Did you pay any taxes in 2014?

A. No.

Q. Yes or no.

A. No.

Q. You didn't pay any tax in 2013 either?

A. I think I did. I paid taxes in 2013.

Q. You were working?

A. Yes.
Q. You ultimately went on Medicaid, didn't you?
A. Yes.
Q. That was the card you used to bring into Mr. Gohari's pharmacy to buy oxycodone, wasn't it?
A. Say that again.
Q. That was the insurance card that you used to buy oxycodone?
A. Okay.
Q. Is that right?
A. Yes.
Q. While you had this Medicaid card, you were selling heroin, cocaine, and oxycodone, weren't you?
A. Probably at that time, yes.
Q. Did you tell the folks at Medicaid that you were making all this money?
A. No.
Q. So you lied to them in your Medicaid application?
A. I guess so.
Q. Did you or didn't you?
A. I don't recall them asking if I had money or not.
Q. You wouldn't be getting a Medicaid card to get prescriptions for nothing if you had money, is that what you just said?
A. No. Just get direct with it because I don't understand.
Q. In 2012 you were selling heroin, crack?

A. On and off. It wasn't a steady thing. But yes, on and off.
Q. In 2012 you were selling heroin, crack?
A. Also, I was an environmental engineer as well. Bring that up too.
Q. 2012 you were selling heroin, crack, cocaine base, marijuana, plus you were selling oxycodone?
A. In 2012?
Q. Yes.
A. Okay.
Q. You were doing the same thing in 2013, right?
A. Yes, on and off.
Q. You had a Medicaid card that you were using to buy prescription drugs during that period of time.
A. Okay.
Q. Is that right?
A. Could be, yes.
Q. You never told the people in Medicare that you were making all of this criminal money, money from criminal activities, when you filled out an application as someone who needed Medicaid and you got a Medicaid card, did you?
A. No.
Q. You lied to them, didn't you?
A. If you want to consider it a lie. They never asked. I don't know what was on the application.

Q. You don't know what was on the application?
A. No.
Q. You think if you told them that you were making hundreds of thousands, X hundred thousand dollars a year on cocaine trafficking, they would have given you a medication insurance card?
A. I wasn't making that much money. I wouldn't have moved to PA.
MR. KEHOE: Your Honor, may I have one moment?
THE COURT: Yes.
MR. KEHOE: Your Honor, I do believe I fit within your time schedule, and I have no further questions of this witness.
THE COURT: Very good.
Redirect.
REDIRECT EXAMINATION
BY MS. ESTES:
Q. Mr. Cabrera, why were you getting Medicaid?
A. Because I wasn't working at the time.
Q. Did you and the defendant ever discuss why you were getting Medicaid if you were a home health aide?
A. No, never.
Q. Mr. Cabrera, defense counsel talked a lot about fooling doctors. I want to discuss that a little bit.
A. Sure.
Q. You testified yesterday about Dr. White. Why did you

decide to start sending patients to Dr. White?
A. Because it seemed like it would be easier for him to write the prescription because he had so many people going there already.
Q. Was your understanding that patients were fooling Dr. White?
MR. KEHOE: Objection, Judge.
A. Yes.
MR. KEHOE: This is leading.
THE COURT: I will allow that one, but be careful about leading.
MS. ESTES: Yes, your Honor.
A. Yes.
Q. Why is that?
A. Because it was spoken openly.
Q. What was spoken openly?
A. What people were doing, how they were getting the prescriptions and stuff like that.
Q. When you say it was spoken openly, what are you referring to?
A. Like if we was sitting down in the office, other people would be talking about what they do and how they do it, and you pick up along the way like that.
Q. To clarify, did you understand that you were fooling Dr. White?

A. Yes.

Q. Turning to Dr. Ahmad, did you send patients to Dr. Ahmad?

A. Yes.

Q. Did you understand that you were fooling Dr. Ahmad?

A. Not really, because Dr. Ahmad was writing anything you asked for.

Q. What do you mean by that?

A. Meaning you could just basically walk into his office without no blood examination, without no documents, and literally go in there and ask for like six to seven HIV drugs, and he will just write them out.

Q. Did you bring prescriptions from Dr. Ahmad to the defendant's pharmacy?

A. Yes.

Q. Let's talk about the defendant. Did you believe you were fooling the defendant?

A. No. Me and him spoke on it, and it seemed like he had no issues with it.

Q. When you say you and he spoke on it, what do you mean by that?

A. That I told him I could bring X amount of prescriptions if he would be willing to fill in the oxycodone, which he did. He always gave me the oxycodone with no issues.

Q. Did you have an understanding of whether the defendant was making money off of your scheme?

A. What I was personally doing?

MR. KEHOE: Objection, Judge. Foundation. No basis.

(Question read)

THE COURT: No, I think that is permissible. Overruled.

Q. Mr. Cabrera, you testified yesterday that you were bringing the defendant high-end medications.

A. Right.

Q. Did you have an understanding of whether the defendant was making money off of your scheme?

A. Off the prescriptions I was bringing, yes.

Q. What prescriptions were those?

A. The high-end prescriptions, the HIV, you know, the ones that cost good money.

Q. Mr. Cabrera, you were asked a lot of questions about being a home health aide. As to those patients, did Benn Darin ever pay you anything?

A. No.

Q. Did you pay him?

A. I gave him a few, you know, like 30, 40 bucks so he can give me his prescription so I can fill it at any pharmacy.

Q. Were you Benn Darin's home health aide?

A. No.

Q. Did you ever tell Danny you were Benn Darin's home health aide?

A. No.

Q. Did you and Danny ever discuss whether you were a home health aide?

A. No.

Q. Did you and Danny ever discuss why a home health aide would be coming to his pharmacy when that home health aide was taking multiple oxycodone prescriptions a day?

A. No.

Q. There was a lot of cross-examination about the conditions that these patients had. Did the defendant ever ask about these patients' conditions?

A. No.

Q. Did he ever ask about Benn Darin's cancer?

A. No.

Q. Did he ever ask about Jorge Tirado's psychiatric problems?

A. No.

Q. Did you ever ask about Sheri Bowen's psychiatric problems?

A. No.

Q. Did he ever ask about Wilfredo Stretz's psychiatric problems?

A. No.

Q. What sorts of things did he say about their prescriptions?

A. Either something went generic or he was pleased with whatever I brought in for the day. That's what he cared about.

Q. When you say something went generic, what do you mean?

A. Like for instance Seroquel went generic. He let me know that this is no good no more, they don't pay for this no more.
Q. When you say this is no good no more, what did you understand that to mean?
A. To try to get something else.
Q. Mr. Cabrera, you testified earlier about whether a prescription was legitimate. What did you understand "legitimate" to mean?
A. That I didn't write stuff on a pad myself and give it to him.
Q. And give it to who?
A. Danny.
Q. To clarify, these were prescriptions from doctors?
A. Yes.
Q. Did you and Danny ever have a conversation about whether these patients needed the oxycodone pills?
A. No.
Q. Did you and Danny ever have a conversation about whether these patients took the oxycodone pills?
A. No.
Q. Did you and Danny ever have a conversation about whether these patients, the pain they had, required these oxycodone pills?
A. No.
Q. Mr. Cabrera, defense counsel asked you a little bit about

some specific transactions at the pharmacy. Approximately how many times have you been in the defendant's pharmacy?
A. In the beginning I was going at least three to four times a week. Then sometimes two, one. It varied.
Q. So, over the course of this couple-year period, approximately how many times did you go there total?
A. A lot.
Q. Would you say hundreds?
A. Yes, hundreds.
Q. Do you remember every transaction at the pharmacy?
A. No.
Q. Do you remember every oxycodone prescription that were dispensed to you?
A. No.
Q. Who were you mostly dealing with at the pharmacy?
A. Danny.
Q. You testified earlier that the Asian lady at the pharmacy stopped dispensing oxycodone to you?
A. Yes.
Q. Did anybody else stop dispensing to you?
A. Yes. There was also a male pharmacist there, and he filled it in a couple of times I recall, and then he just stopped.
Q. What is your understanding as to why he stopped?
MR. KEHOE: Objection, Judge. Foundation to that.
(Record read)

MR. KEHOE: Foundation and hearsay.

THE COURT: Sustained.

MS. ESTES: Your Honor, may we have a side bar briefly?

THE COURT: Okay.

(At the side bar)

MS. ESTES: Your Honor, as to the hearsay point, we would like to elicit this conversation because this is an employee of the defendant, so it is an admission by an employee of the defendant during the course of his employment.

THE COURT: Tell me what the witness is going to say.

MS. ESTES: He is going to say this employee stopped dispensing, that the employee stopped dispensing the oxycodone to him because he would say it's out of stock or things like that.

MR. KEHOE: It's an admission of a party opponent. This person is not a party opponent. This is not a corporate case. This is an individual. They didn't indict the pharmacy. There is no admission by an employee.

THE COURT: Is it your contention that the employee was acting in concert with Mr. Gohari?

MS. ESTES: No. The contention is that the defendant owns the pharmacy, he's a supervising pharmacist, so his employees are covered within rule 801.

THE COURT: The point that is being made is that if the employee is acting at the behest of the employer -- what is it you are trying to elicit here? What is the relevance? Maybe that will help frame the issue.

MS. ESTES: Just that other pharmacists other than Ms. Auyeung rejected Mr. Cabrera so that he was mainly dealing with Mr. Gohari.

THE COURT: I see.

MR. KEHOE: They should have put that person on the stand. This is not an 801(d)(2) statement, Judge. It's not a party opponent, so it's not an admission. Every employee of a company can not speak and then have that deemed to be an admission for anybody else in the company. The ramifications of that are enormous and it is simply not the rule.

If they wanted to indict this as a corporate case, they certainly had that option. God knows, Judge, you have seen plenty of those. This is not one of those. It's an individual. And they just said he is not a co-conspirator, so it's not an 801(d)(2)(E) statement.

THE COURT: Sustained.

(Continued on next page)

(In open court)

BY MS. ESTES:

Q. Mr. Cabrera, defense counsel asked about your house in Pennsylvania. Why did you move to Pennsylvania?

A. Because it's cheaper.

Q. Mr. Cabrera, do you have an understanding of whether as part of the cooperation agreement you agree to forfeiture?

A. Yes.

Q. What is your understanding of what that means with respect to your house?

A. That it can be taken away from me.

Q. Mr. Cabrera, you testified earlier that part of the arrangement was that you were getting both the bulk of medications and high-end prescriptions. When you say a bulk of medications, what is your understanding of why that was part of the agreement?

MR. KEHOE: Objection, Judge. This is asked and answered. I didn't go into bulk medications.

THE COURT: I'll allow it. You may answer.

A. What did I think the bulk of prescriptions was? A lot of them at one time.

Q. What is your understanding of why the defendant wanted a lot of prescriptions?

A. To make money off of them.

(Continued on next page)

BY MS. ESTES:
Q. Now, Mr. Cabrera, defense counsel went through some records with you earlier. I'd like to do that as well.
A. Okay.
MS. ESTES: One moment, your Honor.
Your Honor, may I approach the witness?
THE COURT: Yes.
MR. KEHOE: 209?
MS. ESTES: Ms. Bustillo, could you also display Government Exhibit 209.
Q. Mr. Cabrera, I've handed you what has been entered into evidence as Government Exhibit 209. This is a document you went through with defense counsel earlier?
A. Yes.
Q. Could you tell me how many pages are in that document?
A. You want me to count them or just look at the numbers?
Q. If I direct your attention to the last page, there should be a page number there.
A. Okay. Twenty-one.
Q. All right. So defense counsel went through a couple of pages with you. I'd like to go through some more with you.
A. Okay.
MS. ESTES: Ms. Bustillo, could you please turn to page 6 and if you could zoom in on the bottom row.
Q. Mr. Cabrera, defense counsel went over this drug with you

earlier, diclofenac. Again, how are you familiar with that drug?
A. From Danny. He wrote it on a piece of paper for me.
Q. What's the price of that drug?
A. $867.65.
Q. Sorry. When you said he wrote it on a piece of paper, what did you mean by that?
A. At the pharmacy he just grabbed a piece of paper, he wrote down, and it stated that this should be easy for us to get some, pain creams.
Q. So to be clear, he asked you to get the pain creams?
A. Yes.
MS. ESTES: Ms. Bustillo, could we go to the next page, page 7, and if you could please zoom in to the second from the bottom.
Q. Mr. Cabrera, what's the drug listed there?
A. The same.
Q. And what's the amount?
A. $867.65.
MS. ESTES: Ms. Bustillo, could you go to page 9. And if you could zoom in on the second transaction from the top.
Q. Mr. Cabrera, what's the drug listed there?
A. The same.
Q. What's the amount?
A. $867.65.

MS. ESTES: Ms. Bustillo, could you go to the next page, page 10, and could you zoom in to the fifth row for the Abilify transaction.

Q. Mr. Cabrera, what's the drug listed there?
A. Abilify.
Q. And what's the amount listed there?
A. $788.85.

MS. ESTES: And on this same page, Ms. Bustillo, could you also go to the bottom row there.

Q. What's the drug listed there, Mr. Cabrera?
A. Saphris.
Q. What's the amount listed there?
A. $770.21.

MS. ESTES: Ms. Bustillo, could you go to page 11. Could you zoom in to the bottom row, to the transaction there.

Q. Mr. Cabrera. Cabrera, what's the drug listed?
A. Abilify.
Q. What's the price?
A. $788.85.

MS. ESTES: Ms. Bustillo, could you go to page 12 and let's go to the fourth row.

Q. Mr. Cabrera, what's the drug listed there?
A. Abilify.
Q. And what's the price listed there?
A. $788.85.

MS. ESTES: Finally, Ms. Bustillo, could you go to page 13 and zoom in to the third row.

Q. Mr. Cabrera, what's the drug listed there?

A. Abilify.

Q. And what's the price listed there?

A. $788.85.

Q. So when you testified yesterday that Duane Harrison was one of the patients who was getting high-end medications, what medications were you referring to?

A. The psych.

Q. Are those some of the medication we just looked at?

A. Yeah. He didn't show me those earlier so I thought I didn't bring it for him.

MS. ESTES: Ms. Bustillo, could we now turn to Government Exhibit 219 -- 218, excuse me. And if we could go to the last page, page 41.

Q. Mr. Cabrera, this is another exhibit that defense counsel asked you about earlier. We're not going to go through everything in this exhibit, but I just did want to turn to a transaction on the last page which Ms. Bustillo is zooming in to.

A. Okay.

Q. What is the drug listed there?

A. I don't know if I'm pronouncing it right, but arpizol.

Q. What's the price listed there?

A. $868.70.
Q. And what is your understanding of what this drug is used for?
A. Psychiatric.
Q. Mr. Cabrera, you testified earlier that as part of the arrangement, you brought patients like Ben Darin to the defendant's pharmacy; is that right?
A. Yes.

MS. ESTES: Ms. Bustillo, could you go to Government Exhibit 203. And if you could turn to the last page there.

Q. Mr. Cabrera, these are the prescription records for Ben Darin.

MS. ESTES: Ms. Bustillo, if you could zoom in to the total amount at the bottom of the page.

Q. Mr. Cabrera, what's the price listed there or what's the amount listed there in total amount column?
A. Eight thousand, seven hundred, two hundred and fifty-one dollars and twenty-five cents.
Q. What's the total amount that the patient paid for all of these medications?
A. Nothing, but it says 224 there.

MS. ESTES: Ms. Bustillo, could you also go to Government Exhibit 206. These are the medications, prescriptions for Willie Johnson. Could you also turn to the last page of this document and could you zoom in to the bottom to the total amount.

Q. Mr. Cabrera, what is the total amount listed there for Willie Johnson's medications?

A. Five thousand, four hundred, nine hundred -- $5,492.69.

Q. And what's the total amount that the patient paid?

A. $632.

MS. ESTES: Ms. Bustillo, could you also turn to Government Exhibit 201. These are the prescription records for Alberto Nazario. Could you turn to the last page of this document, please.

Q. Mr. Cabrera, what is the total amount listed at the bottom of this page for Alberto Nazario's prescriptions?

A. $47,599.

Q. And what is the total amount listed for patient paid?

A. $1,750.22.

MS. ESTES: Your Honor, may I have one moment?

THE COURT: Yes.

MS. ESTES: No further questions.

MR. KEHOE: Just briefly, Judge?

THE COURT: Go ahead.

RECROSS EXAMINATION

BY MR. KEHOE:

Q. In -- excuse me -- Mr. Harrison's exhibit, if we go to 209 Ms. Bustillo, please, and we go to page 13, which is the one that counsel just was talking about, and go to the middle of

the page, Abilify. Do you have that with you? It will be up on the screen, Mr. Cabrera.
A. Okay.
Q. You may not have the hard copy there, so don't worry about it.
Now, Abilify is a drug for psychiatric disorder, isn't it?
A. Yes.
Q. And Duane Harrison had psychiatric disorders, didn't he?
A. I believe so.
Q. And he got this Abilify prescribed to him by a doctor, didn't he?
A. Yes.
Q. And he took it, didn't he?
A. I gave him his medicine, yes.
Q. So he got this medicine after going to a psychiatric doctor, you picked it up and you gave it to him?
A. Yes.
Q. Now, it says -- counsel brought out $788.85. How much does it cost Mr. Gohari to buy Abilify?
A. You have to ask him.
Q. I'm asking you, do you know?
A. I don't know. We never discussed that. We only discussed I bring him a bulk of prescriptions and he filled in the oxycodone for me. That's it. I never knew how much anything

costs. We never discussed how much medications cost or nothing like that.

Q. Now, going to page 10 is what counsel on the same document, page 10, at the bottom of the page, Saphris. Do you know -- counsel brought that out, $770.21. It's prescribed by a Dr. Saint Peru. What is that?

A. That's a psychiatric.

Q. And this is again psychiatric medicine going to Duane Harrison?

A. Yes.

Q. Prescribed by a doctor?

A. Yes.

Q. And Mr. Harrison actually went to this doctor, did he not?

A. I suppose so, yes.

Q. And you picked this Saphris up for Mr. Harrison, didn't you?

A. Yes.

Q. And you gave it to him?

A. Yes.

Q. Do you know how much of the $770.21, how much Mr. Gohari made on that?

A. No.

MS. ESTES: Objection, asked and answered.

MR. KEHOE: It's a different prescription.

THE COURT: He's already indicated he doesn't have any

knowledge of it.
Q. You don't have any knowledge of any of these prescriptions that counsel brought up, you don't know if Mr. Gohari made a dime or a quarter or a million dollars, do you?
A. No.
Q. Let us go to the exhibit for Mr. Tirado. Pardon me if I don't have the number correctly. I believe that is 218, is that right. And the top one highlighted by counsel which was -- again, pardon me if I mispronounce that -- it's aripiprazole prescribed by Horatio Preval. It's the top one on page 42. What is that, sir?
A. I believe it's a psychiatric medicine.
Q. And it was prescribed by a drug for Mr. Tirado, right?
A. Yes.
Q. And I think we heard tapes, etc., Mr. Tirado had psychiatric problems, didn't he?
A. Yes, I believe so.
Q. So he had psychiatric problems, a doctor prescribed this, and you had it filled at Mr. Gohari's pharmacy, right?
MS. ESTES: Objection, form.
MR. KEHOE: I'm trying to move through this quickly, Judge.
THE COURT: Still a valid objection. Sustained.
Q. Tirado had this prescription for arpizol, antipsychotic drug, prescribed to him, right?

MS. ESTES: Objection to antipsychotic.

THE COURT: Sustained.

MR. KEHOE: I'm sorry, Judge. The basis of the objection is?

THE COURT: It's not calling for his knowledge.

Q. Did you come to learn that he got this prescription after it was prescribed?

A. I guess so.

Q. And you took it to Gohari's pharmacy, didn't you?

A. Yeah, because he told me to bring all the prescriptions I can get to him.

Q. And then you gave it to George Tirado because that's what he needed, didn't you?

A. Whether or not he took it, I don't know.

Q. Talking about you.

A. I didn't dispense medicines to them like that. I wasn't feeding them, so I wouldn't know if he was taking it or not.

Q. You went and got it and you brought it to him, didn't you?

A. Yeah, I brought them their medications, yes.

Q. Now, this Ben Darin, counsel went to the last page, and this is Exhibit 203. Go to the last page of 203. And they blew up the total amount was 87,000. Do you see that 87,000?

A. 87,000.

Q. 87,251. Now, this is over a course of almost three years, right?

A. I believe so.

Q. Okay. And, again, the amount that was dispensed, you have no idea of the costs that Mr. Gohari had on that, do you?

MS. ESTES: Objection.

MR. KEHOE: They put this on, Judge.

THE COURT: But we've been through this. The objection is cumulative.

MR. KEHOE: Okay, Judge. I'm just covering it, just for the record, Judge, I would do the same thing with Exhibit 206 and 201. And I will just move on, quickly move through this.

Q. By the way, counsel just asked you about whether or not your property, the estate that we had, is subject to forfeiture. Did you remember that question by counsel?

A. Yes.

Q. Have they filed any papers anywhere in Pennsylvania or anywhere else to begin the forfeiture procedure on your house?

MS. ESTES: Objection.

THE COURT: Overruled.

MS. ESTES: Foundation.

THE COURT: Overruled.

A. Answer?

Q. Yes.

A. I'm not sure. I don't know.

Q. You don't know of any procedure having been taken by the

U.S. Attorney's Office to try to seize your house bought with drug money, do you?
A. All I know is when I go to court, they can take my house and everything else from me.
Q. But they haven't done it, have they?
A. Not as of yet.
Q. By the way, Ben Darin, have you seen any record in all of your interviews or anything else where Ben Darin was getting cancer medication?
MS. ESTES: Objection, beyond the scope.
MR. KEHOE: No, it's not.
THE COURT: Whoa. Overruled, but --
MR. KEHOE: Excuse me, Judge, I apologize.
THE COURT: Overruled.
Q. Have you seen any record anywhere that Ben Darin was getting cancer medication?
A. I'm not sure. I just grab the prescriptions and brought it to Danny.
Q. Well, Ben Darin was not getting cancer prescriptions, was he?
A. I'm not sure.
MS. ESTES: Objection.
Q. One last thing. You said that Danny told you not to bring Seroquel anymore because there wasn't enough money in it; is that right?

MS. ESTES: Objection.
MR. KEHOE: It was brought up --
MS. ESTES: Mischaracterizes.
MR. KEHOE: Excuse me?
MS. ESTES: Withdrawn.
Q. Seroquel, do you remember that don't bring it anymore?
A. Yeah.
Q. When did he tell you to do that?
A. I don't recall the exact date. It wasn't like don't bring it anymore, but it was like he was letting me know that it's not worth any money really. He's like it went generic. Any time something went generic, then he would tell me that.
Q. Sheri Bowen continued to get Seroquel throughout the end of this conspiracy, didn't she, you were picking it up for her?
MS. ESTES: Objection, beyond the scope.
THE COURT: Overruled.
Q. Wasn't that right?
A. Yeah.
Q. So Gohari tells you don't --
A. I still continue to bring the people's regular medications all the time.
Q. Excuse me. You say Gohari said don't bring Seroquel, but in fact you continued to bring Seroquel for Sheri Bowen up through October of 2015, didn't you?
A. That was her regular medications, meaning don't bring new

patients Seroquel.

Q. Oh, just new patients. The old ones continue with Seroquel. This is just new ones?

MS. ESTES: Objection.

THE COURT: Sustained.

Q. By the way, you were just talking about Dr. White. It came up again on redirect examination. Dr. White is the one that threw your patients out, didn't he?

A. Some.

MR. KEHOE: Thank you. I have no further questions.

THE COURT: Anything further from the government?

MS. ESTES: No, your Honor.

THE COURT: Thank you very much. You may step down.

THE WITNESS: Thank you, your Honor.

(Witness excused)

THE COURT: Well, I know, ladies and gentlemen, that you want to stay another ten minutes and I appreciate your desires in that respect, but you will forgive me. I'm going to let you go now. You know, I'm just a very hard taskmaster.

But to get serious, we will see you tomorrow at the 9 a.m. We're only sitting a half day tomorrow, that is to say from nine to one. So we need to start right at 9 o'clock and we'll see you then. Have a good evening.

(Continued on next page)

(Jury not present)

THE COURT: Please be seated. All right. Who do we have for the next witness?

MS. ESTES: Your Honor, we intend to call William Winsley in the morning.

THE COURT: How long will that be on direct?

MS. ESTES: I think about an hour and a half, maybe less.

THE COURT: Okay. And cross.

MR. KEHOE: About three days, Judge. I'm kidding.

THE COURT: Pardon?

MR. KEHOE: I'm mumbling while I'm thinking, which is a habit I have. I certainly think we can finish him tomorrow morning.

THE COURT: What I'm really getting at is whether we need a second witness. It sounds like we better have a second witness.

MS. ESTES: Yes, your Honor.

MR. KEHOE: Who would that second witness be?

MS. ESTES: We're planning on having Caran Thomas. She's also a very short witness, so we will also have Sheri Bowen.

THE COURT: Very good. See you tomorrow.

(Adjourned to November 3, 2016 at 9 a.m.)

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